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Madison

THE
P A P E R S
OF
J A M E S M A D I S O N,

PURCHASED BY ORDER OF CONGRESS;

BEING

HIS CORRESPONDENCE AND REPORTS OF DEBATES DURING
THE CONGRESS OF THE CONFEDERATION

AND

HIS REPORTS OF DEBATES

IN THE

FEDERAL CONVENTION;

NOW PUBLISHED FROM THE ORIGINAL MANUSCRIPTS, DEPOS-
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THE JOINT LIBRARY COMMITTEE OF CONGRESS,
UNDER THE SUPERINTENDENCE

OF

HENRY D. GILPIN.

VOLUME I.

WASHINGTON:

LANGTREE & O'SULLIVAN.

1840.



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NOTICE.

JAMES MADISON died, in the eighty-fifth year of his age, at his residence, Montpelier, in Orange county, Virginia, on the 28th of June, 1836.

On the 30th of the same month, the President of the United States transmitted, by Mr. Donelson his Secretary, the following message to the Senate and House of Representatives:—

“WASHINGTON, June 30, 1836.

“To the Senate and House of Representatives :

“It becomes my painful duty to announce to you the melancholy intelligence of the death of JAMES MADISON, Ex-President of the United States. He departed this life, at half past six o'clock on the morning of the twenty-eighth instant, full of years and full of honours.

“I hasten this communication, in order that Congress may adopt such measures as may be proper, to testify their sense of the respect which is due to the memory of one whose life has contributed so essentially to the happiness and glory of his country, and to the good of mankind.

“ANDREW JACKSON.”

In the Senate, after the message from the President had been read, Mr. RIVES of Virginia made the following remarks :

“MR. PRESIDENT : I feel that it would be an act of sacrilegious temerity, were I to attempt to add to the intrinsic pathos of the melancholy intelligence just announced to us by the President of the United States, by any thing in the way of eulogy of the character of the great man whose decease he has communicated to us. The eulogy of Mr. MADISON is written in every page of the history of his country, to whose service his whole life was devoted ; and with every great event in whose annals, his name stands conspicuously and enduringly identified. Filled, however, as his life was, from its dawn to its close, with labours of patriotism and superior wisdom, there is one great work of his which must ever recur prominently to the grateful memory of his country. He was, in an especial manner, the founder and author of that glorious Constitution which is the bond of our union and the charter of our liberties ; and it was graciously vouchsafed to him, in the order of Providence, to witness for a longer period than any of his illustrious colleagues, the rich blessings which have resulted from its establishment. He was the last surviving signer of that sacred instrument. Amid the general grief which pervades the nation, may we not indulge one consolation at least, in the hope that his death, whilst adding the last seal to his own fame and glory, will in some sort canonize the work of his hands, and surround, with a new veneration, that precious relic of the wisdom of our departed patriots and sages.

“But, sir, I will not speak of the public life of Mr. MADISON ; it is known to us all ; it is appreciated by us all. It was my privilege to see and know him in the scenes of that classic retirement in which he passed the evening of his days. It was there that the mild lustre of his private virtues, which formed the crowning grace of his character, and is the indispensable complement of a true public glory, was seen and felt. But

who can paint him there ? Who can adequately describe that fascinating suavity of temper and manners ; that spirit and grace of conversation, so happily blended with the oracles of philosophy and experience ; that amiable and cultivated benevolence, ever watchful of the feelings and comfort of others, even in the minutest trifles, which together formed around the hearth of Montpelier, a group of social virtues and attractions which, however incompetent the powers of language to portray, those who have felt their influence can never forget ? In speaking of these things, Mr. President, I am but too forcibly reminded of my own personal loss, in the general and national calamity which we all bewail. I was the neighbour of Mr. MADISON, sir, and enjoyed his kindness and friendship ; and if in speaking of a great national bereavement, my mind recurs too fondly to the chasm his death has left in the immediate circle of his friends, something I trust will be pardoned to the feelings of the heart.

“It is my melancholy satisfaction to have received, in all probability, the last letter ever signed by his hand. It bears date only six days before his death, and furnishes, in its contents, a striking illustration of that amiable benevolence and sensibility to the kindness of others, which formed so prominent a trait in his character. In that letter, which is now before me, he spoke of his enfeebled health ; and his trembling and unsteady signature, so much in contrast with the usual firmness and regularity of his writing, bore a graphic and melancholy intimation of his approaching end. Still I trusted that his light might hold out till the fourth of July, that he might be restored, on that glorious anniversary, to an immortal companionship with those great men and patriots with whom he had been intimately connected in life, and whose coincident deaths, on the birthday of the nation’s freedom, had imparted to that day,

if possible, an additional and mysterious illustration. But it has been ordered otherwise. His career has been closed at an epoch which, forty-nine years ago, witnessed his most efficient labours in the illustrious assembly which laid the foundations of our present system of government, and will thus, by the remembrance of his death, as well as by the services of his life, more closely associate him with that great work which is at once the source and guarantee of his country's happiness and glory.

“What honours, Mr. President, are there, by which we can do justice to a character which history will hold up to future ages as a model of public and private virtues, not surpassed by the brightest examples in ancient or modern times? Sir, there are none. Still it is proper that, as representatives of the American people, we should show by some suitable manifestations, how sincerely and deeply we participate in the universal feeling of grief on this mournful occasion; and I move you therefore the following resolution :

“*Resolved*, That a committee be appointed on the part of the Senate, to join such committee as may be appointed on the part of the House, to consider and report, by what token of respect and affection, it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of Mr. MADISON, just announced by the President of the United States.”

The resolution was unanimously adopted by the Senate, and a committee was appointed by the Chair consisting of the following Senators :

MESSRS. RIVES of Virginia,	BUCHANAN of Pennsylvania,
CLAY of Kentucky,	LEIGH of Virginia,
CALHOUN of South Carolina,	and
GRUNDY of Tennessee,	TALLMADGE of New York.

In the House of Representatives, after the message from the President had been read, Mr. PATTON of Virginia, made the following remarks :

“Mr SPEAKER : The particular relation in which I stand, as his immediate representative and personal friend, towards the great public benefactor whose decease, ‘full of years and full of honours,’ has just been announced by the message of the President of the United States, has induced the Virginia delegation to devolve upon me, the mournful duty of proposing for the adoption of the House, the resolution I am about to offer, for the purpose of determining upon the course to be pursued for giving expression to the national sensibility to the great bereavement we have suffered.

“I do not, however, Mr. Speaker, feel it to be a suitable occasion on which to employ or indulge in any studied phrase of panegyric on the public or private virtues of the venerable man whose loss we deplore.

“It is true, sir, that early imbued with the sincerest veneration for the character of Mr. Madison ; with the profoundest admiration of his talents, and the warmest gratitude for his eminent and varied public services ; there is no language that I could employ which would exaggerate the deep emotion with which I have been impressed by the melancholy intelligence of his death. And I am sure that it would be equally impossible for me to speak of him in any terms that would depict an individual, pre-eminent in all the virtues of social and private life, or one that combined the merits of a patriot, statesman and sage, that would not find a ready and full response in the minds and hearts of all who hear me. But it is not a feeble effort of this kind, such as I could make, nor even the highest effort of human eloquence, the lofty inspiration of poetry, ‘the storied urn or animated bust,’ that can rear an appro-

priate monument to the memory of Mr. MADISON, or erect a suitable monument to his fame.

“His appropriate and enduring eulogium is to be found inscribed in those pages of his country’s history which are identified with her honour and glory. It is engraved on every pillar of that splendid fabric of constitutional liberty under which we live. It is identified with the existence of that glorious union of confederated States which he contributed so essentially to form, and the maintenance and preservation of which, with all its numerous blessings, were the constant object of his care during his long, laborious and useful public life, and of his most earnest and anxious solicitude in the shades of retirement.

“And, Mr. Speaker, another and not less decisive and more affecting evidence of his merit and title to public gratitude, will be found in the deep grief with which his loss will be deplored, by every man in the nation as a great national calamity. I offer the resolution which I now send to the chair.

“*Resolved*, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to consider and report by what token of respect and affection, it may be proper for the Congress of the United States, to express the deep sensibility of the nation to the event of the decease of Mr. Madison, just announced by the President of the United States to this House.”

The resolution having been read,

Mr. ADAMS rose and addressed the Speaker. “By the general sense of the House,” he said, “it is with perfect propriety that the delegation from the commonwealth of Virginia have taken the lead, in the melancholy duty of proposing the measures suitable to be adopted, as testimonials of the veneration due

from the legislature of the Union, to the memory of the departed patriot and sage, the native of their soil, and the citizen of their community.

“It is not without some hesitation and some diffidence, that I have risen to offer, in my own behalf, and in that of my colleagues upon this floor, and of our common constituents, to join our voice at once of mourning and of exultation, at the event announced to both Houses of Congress, by the message from the President of the United States—of mourning at the bereavement which has befallen our common country, by the decease of one of her most illustrious sons; of exultation at the spectacle afforded to the observation of the civilized world, and for the emulation of aftertimes, by the close of a life of usefulness and glory, after forty years of service in trusts of the highest dignity and splendour that a confiding country could bestow, succeeded by twenty years of retirement and private life, not inferior in the estimation of the virtuous and the wise, to the honours of the highest station that ambition can ever attain.

“Of the public life of JAMES MADISON, what could I say that is not deeply impressed upon the memory and upon the heart of every one within the sound of my voice? Of his private life, what but must meet an echoing shout of applause from every voice within this hall? Is it not, in a pre-eminent degree, by emanations from his mind that we are assembled here as the representatives of the people and States of this Union? Is it not transcendantly by his exertions that we all address each other here by the endearing appellation of countrymen and fellow-citizens? Of that band of benefactors of the human race, the founders of the Constitution of the United States, JAMES MADISON is the last who has gone to his reward. Their glorious work has survived them all. They have transmitted the

precious bond of union to us, now entirely a succeeding generation to them. May it never cease to be a voice of admonition to us of our duty to transmit the inheritance unimpaired to our children of the rising age.

“Of the personal relations of this great man, which gave rise to the long career of public service in which twenty years of my own life have been engaged, it becomes me not to speak. The fulness of the heart must be silent, even to the suppression of the overflowings of gratitude and affection.”

The resolution was then unanimously adopted, and the following named members were appointed of the committee on the part of the House: Messrs.

PATTON of Virginia,	DEBERRY of North Carolina,
MASON of Maine,	GRIFFIN of South Carolina,
CUSHMAN of New Hampshire,	COFFEE of Georgia,
ADAMS of Massachusetts,	JOHNSON of Kentucky,
TRACEY of Connecticut,	DUNLAP of Tennessee,
PEARCE of Rhode Island,	McLENE of Ohio,
ALLEN of Vermont,	RIPLEY of Louisiana,
WARD of New York,	CARR of Indiana,
PARKER of New Jersey,	CLAIBORNE of Mississippi,
ANTHONY of Pennsylvania,	REYNOLDS of Illinois,
MILLIGAN of Delaware,	LYON of Alabama, and
WASHINGTON of Maryland,	HARRISON of Missouri.

The same day Mr. RIVES reported to the Senate, and Mr. PATTON to the House of Representatives, from the Joint Committee, the following:

“The President of the United States having communicated to the two Houses of Congress, the melancholy intelligence of the death of their illustrious and beloved fellow-citizen, JAMES MADISON of Virginia, late President of the United States, and

the two Houses sharing in the general grief which this distressing event must produce,

“Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the chairs of the President of the Senate and Speaker of the House of Representatives be shrouded in black during the present session; and that the President of the Senate, the Speaker of the House of Representatives, and the members and officers of both Houses wear the usual badge of mourning for thirty days.

“Resolved, That it be recommended to the people of the United States to wear crape on the left arm, as mourning, for thirty days.

“Resolved, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. MADISON, and to assure her of the profound respect of the two Houses of Congress for her person and character, and of their sincere condolence on the late afflicting dispensation of Providence.”

The report and resolutions were unanimously adopted in both Houses.

On the same day the following General Orders were issued from the Navy Department:

“NAVY DEPARTMENT, 30th June, 1836.

“To the officers of the Navy and Marine Corps:

“The President of the United States, with deep affliction, announces to the navy and marine corps the death of the illustrious statesman and patriot JAMES MADISON, late President of the United States, who died at Montpelier on the morning of the 28th instant.

“As a testimony of the high sense of feeling for the loss which our country has sustained, in the death of this great and

good man, and in which the navy and marine corps participate with the whole American people, the President directs that funeral honors be paid to him by the vessels of the navy in our own and foreign ports, by wearing their colours half-mast, for one week ; that twenty-one minute guns be fired at each navy yard and in all public vessels in commission at 12 o'clock, M. on the day after this order shall be received ; and that the officers of the navy and marine corps wear crape on the left arm for six months.

“MAHLON DICKERSON.”

On the next day the following General Orders were issued from the War Department :

“HEADQUARTERS OF THE ARMY,

“ADJUTANT GENERAL’S OFFICE,

“*Washington, July 1, 1836.*

“The Major General commanding in Chief, has received through the War Department the commands of the President to announce to the Army the death of the illustrious statesman and patriot Ex-President MADISON ; who died at his seat at Montpelier, in Virginia, on the morning of the 28th of June.

“As a testimony of the feeling for the loss which the nation has sustained in the death of this great and distinguished citizen, in which the Army participates, the PRESIDENT directs that funeral honors, agreeably to the regulations, be paid to the memory of the deceased, at all the military posts, the day after the receipt of this Order ; and by the army in the field, where circumstances will permit.

“BY COMMAND OF MAJOR GENERAL MACOMB.

“R. JONES,

“*Adjutant General.*”

On the 9th of July, 1836, the President of the United States transmitted the resolutions of the Senate and House of Representatives to Mrs. MADISON with the following letter :

“WASHINGTON, *July 9th*, 1836.

“MADAM: It appearing to have been the intention of Congress to make me the organ of assuring you of the profound respect entertained by both its branches for your person and character, and of their sincere condolence in the late afflicting dispensation of Providence, which has at once deprived you of a beloved companion, and your country of one of its most valued citizens; I perform that duty by transmitting the documents herewith enclosed.

“No expression of my own sensibility at the loss sustained by yourself and the nation could add to the consolation to be derived from these high evidences of the public sympathy. Be assured, Madam, that there is not one of your countrymen who feels more poignantly the stroke which has fallen upon you, or who will cherish with a more enduring constancy the memory of the virtues, the services, and the purity of the illustrious man, whose glorious and patriotic life has been just terminated by a tranquil death.

“I have the honour to be, Madam, your most obedient servant,

“ANDREW JACKSON.

“To Mrs. D. P. MADISON,

“*Montpelier, Virginia.*”

The following is the reply of Mrs. MADISON:

“MONTPELIER, *August 20*, 1836.

“I received, sir, in due time, your letter conveying to me the resolutions Congress were pleased to adopt on the occasion of the death of my beloved husband—a communication made the more grateful by the kind expression of your sympathy which it contained.

“The high and just estimation of my husband by my countrymen and friends, and their generous participation in the

sorrow occasioned by our irretrievable loss (expressed through their supreme authorities and otherwise) are the only solace of which my heart is susceptible, on the departure of him who had never lost sight of that consistency, symmetry and beauty of character in all its parts, which secured to him the love and admiration of his country, and which must ever be the subject of peculiar and tender reverence to one whose happiness was derived from their daily and constant exercise.

“The best return I can make for the sympathy of my country is to fulfil the sacred trust his confidence reposed in me—that of placing before it and the world what his pen prepared for their use—a legacy the importance of which is deeply impressed on my mind.

“With great respect,

“D. P. MADISON.

“To the PRESIDENT OF THE UNITED STATES.”

On the 15th November following, Mrs. MADISON addressed the following letter to the President:

“MONTPELIER. *November 15, 1836.*

“SIR: The will of my late husband, JAMES MADISON, contains the following provision:

“‘Considering the peculiarity and magnitude of the occasion which produced the Convention at Philadelphia, in 1787, the characters who composed it, the Constitution which resulted from their deliberations, its effects during a trial of so many years on the prosperity of the people living under it, and the interest it has inspired among the friends of free government, it is not an unreasonable inference that a careful and extended report of the proceedings and discussions of that body, which were with closed doors, by a member who was constant in his attendance, will be particularly gratifying to the people of the

United States, and to all who take an interest in the progress of political science and the cause of true liberty.’

“This provision bears evidence of the value he set on his Report of the Debates in the Convention, and he has charged legacies on them alone to the amount of twelve hundred dollars for the benefit of literary institutions and for benevolent purposes, leaving the residuary net proceeds for the use of his widow.

“In a paper written by him, and which it is proposed to annex as a preface to the Debates, he traces the formation of confederacies and of the Articles of Confederation; its defects which caused and the steps that led to the Convention; his reasons for taking the Debates and the manner in which he executed the task; and his opinion of the framers of the Constitution. From this I extract his description of the manner in which they were taken, as it guarantees their fullness and accuracy.

““In pursuance of the task I had assumed, I chose a seat in front of the presiding member, with the other members on my right and left hands. In this favorable position for hearing all that passed, I noted down, in terms legible, and in abbreviations and marks intelligible to myself, what was read to the chair or spoken by the members; and losing not a moment unnecessarily between the adjournment and re-assembling of the convention, I was enabled to write out my daily notes during the session, or within a few finishing days after its close, in the extent and form preserved in my own hand on my files.

““In the labor and correctness of this, I was not a little aided by practice, and by a familiarity with the style and the train of observation and reasoning which characterized the principal speakers. It happened also that I was not absent a single day, nor more than the casual fraction of an hour in any day, so

that I could not have lost a single speech, unless a very short one.'

"However prevailing the restraint which veiled, during the life of Mr. MADISON, this record of the creation of our Constitution, the grave which has closed over all those who participated in its formation, has separated their acts from all that is personal to him or to them. His anxiety for their early publicity after this was removed, may be inferred from his having them transcribed and revised by himself; and, it may be added, the known wishes of his illustrious friend Thomas Jefferson, and other distinguished patriots, the important light they would shed for present as well as future usefulness, besides my desire to fulfil the pecuniary obligations imposed by his will, urged their appearance without awaiting the preparation of his other works; and early measures were accordingly adopted by me to ascertain from publishers, in various parts of the Union, the terms on which their publication could be effected.

"It was also intended to publish, with these Debates, those taken by him in the Congress of the Confederation, in 1782, '3, and '7, of which he was then a member, and selections made by himself, and prepared under his eye, from his letters narrating the proceedings of that body during the periods of his service in it, prefixing the Debates in 1776 on the Declaration of Independence by Thomas Jefferson, so as to embody all the memorials in that shape known to exist. This exposé of the situation of the country under the Confederation, and the defects of the old system of government, evidenced in the proceedings under it, seems to convey such preceding information as should accompany the Debates on the formation of the Constitution by which it was superseded.

"The proposals which have been received, so far from cor-

responding with the expectations of Mr. Madison when he charged the first of these works with those legacies, have evidenced that their publication could not be engaged in by me, without advances of funds and involving of risks, which I am not in a situation to make or incur.

“Under these circumstances, I have been induced to submit for your consideration, whether the publication of these Debates be a matter of sufficient interest to the people of the United States to deserve to be brought to the notice of Congress. And should such be the estimation of the utility of these works by the representatives of the nation, as to induce them to relieve me individually from the obstacles which impede it, their general circulation will be insured, and the people be remunerated by its more economical distribution among them.

“With high respect and consideration,

“D. P. MADISON.

“To the PRESIDENT OF THE UNITED STATES.”

On the 8th December, immediately after the meeting of Congress, the President transmitted the preceding correspondence to the Senate and House of Representatives with the following message :

“WASHINGTON, *December 6, 1836.*

“*To the Senate and House of Representatives :*

“I transmit herewith to Congress, copies of my correspondence with Mrs. MADISON, produced by the resolution adopted at the last session by the Senate and House of Representatives, on the decease of her venerated husband. The occasion seems to be appropriate to present a letter from her on the subject of the publication of a work of great political interest and ability, carefully prepared by Mr. MADISON’s own hand, under circumstances that give it claims to be considered as little less than official.

“Congress has already, at considerable expense, published, in a variety of forms, the naked journals of the Revolutionary Congress, and of the Convention that formed the Constitution of the United States. I am persuaded that the work of Mr. MADISON, considering the author, the subject matter of it, and the circumstances under which it was prepared—long withheld from the public, as it has been, by those motives of personal kindness and delicacy that gave tone to his intercourse with his fellow-men, until he and all who had been participators with him in the scenes he describes have passed away—well deserves to become the property of the nation, and cannot fail, if published and disseminated at the public charge, to confer the most important of all benefits on the present and succeeding generations, accurate knowledge of the principles of their Government, and the circumstances under which they were recommended and embodied in the constitution, for adoption.

“ANDREW JACKSON.”

The message of the President was referred to the Joint Library Committee, who, on the 24th January, 1837, reported a resolution authorizing that committee “to contract for and purchase, at the sum of thirty thousand dollars, the manuscripts of the late Mr. MADISON, referred to in the letter from Mrs. MADISON to the President, dated 15th November, 1836, and communicated in his message of the 6th December; conceding to Mrs. MADISON the right to use copies of the said manuscripts in foreign countries, as she might think fit.”

In the Senate, on the 18th February, Mr. ROBBINS of Rhode Island advocated the passage of the resolution in the following remarks :

“I consider this work of Mr. MADISON, now proposed to be given to the world under the patronage of this Government, as the most valuable one to mankind that has appeared since the

days when Bacon gave to the world his *Novum Organon*. That produced that revolution in analytics, which has occasioned the immense superiority of the moderns over the ancients in the knowledge of Nature, and in the improvement of the condition of human life—the fruit of that knowledge. With Bacon it was a mere theory; a theory, however, which he fondly cherished, and confidently believed would be prolific, as it has been, of the most magnificent results; but in the hands of Newton, and of his other disciples and followers, it became a practical guide to those astonishing discoveries which, in their consequences, have, among other things, converted those elements of Nature, before supposed only to be controlled by the same Almighty hand which formed them, into the ministers and agents of man, obedient to his will and subservient to his use. It has enabled man to draw the veil from the face of Nature; to inspect her mechanism; and to avail himself of her principles for the augmentation of his own power. It has given him power after power; and is still going on to give him power upon power, as his researches go on in exploring her boundless fields, and in making discovery upon discovery; and to this growing increase of human power, no human being can now assign the possible limits. True, it has not enabled man, as it was fabled of him by the poets of old, to steal the fire from the heavens; but it has enabled him to do more and better—it has enabled him to become an humble pupil in the school of the Divine Artist; and, by studying his models, to copy his agencies, though at the immeasurable distance which separates a finite from the Infinite Being.

“As this Organon of Bacon has been the beacon-light of mankind to guide him to true philosophy, and to the improvement of his physical condition, so will this work of MADISON, as I trust and predict, be his beacon-light to guide

him to the true science of free government, and to the improvement of his political condition;—the science of free government; the most difficult of all the sciences, by far the most difficult, while it is the most important to mankind; of all, the slowest in growth, the latest in maturity. Not the science which has penetrated the causes and explained to mankind the phenomena of the heavens is so difficult; that has been found of easier and more rapid attainment. Indeed the difficulties to be overcome in evolving this science are so great, that we are to wonder less at its tardy advances, than at its final success. In the first place, it requires the deepest and most perfect insight into the nature of man: of man not only in his general nature, but as modified by society, which every where has superinduced and clothed him with a second nature denominated *habit*; and that as diversified as the country he inhabits. Then it requires that faculty of comprehensive combination, which is the rarest of all the gifts of God to man, and which, whenever and wherever it appears, seems destined to produce an era in human affairs; a faculty of combining into a whole, where the elements to be combined are so various as to be almost infinite; a whole, perfect in relation to all its parts, and its parts perfect in relation to the whole. Besides, the perfect model of a free government is not like the perfect model of any other science. Of every other science, the perfect model any where is the perfect model every where, and every where alike is perfect. The perfect watch at Washington, for instance, is the perfect watch at Canton, and so all over the globe; but not so the perfect model of a free government: in that, though the principles are the same every where, the form varies as the circumstances vary, of the people by whom it is established; to which circumstances it must always be adjusted and made to conform.

“Here, with us, the difficulties to be overcome in this achievement, from the nature of the elements to be combined, were stupendously great. In looking back to those difficulties, that they were overcome at all, appears to me now little less than a prodigy; and it still fills me with astonishment. For here a combination was required that would produce a structure perfectly anomalous in the history of human governments; and such a structure was produced, and as perfect as it was novel. Here were a people, spread and spreading over a vast territory, stretching and to stretch almost from the rising to the setting sun—this scattered and countless multitude were to be ruled in freedom as one people, and by the popular will—that will was to be uncontrolled in itself, and controlling every thing. Such an achievement, the most enlightened friends of freedom and human rights, in all countries, and in all ages, had deemed to be morally and physically impossible. Besides, here were thirteen States, and all the other States to be formed out of that vast territory, without being destroyed as States, to be so combined as to form, in the general aspect, but one simple government, with all the unity and energy of one simple government; powerful alike to assert and maintain all their rights as a nation against all other nations, and the rights of every individual, all over this boundless domain, against every aggressor; that is, a government, equally fitted and efficient for all the purposes of peace and war. Such an achievement, often before, and under much more favourable circumstances, because upon a much more limited scale, had been attempted, but never before accomplished; as is but too well attested by the histories and the destinies of all the confederacies that before had ever existed on the earth.

“Those confederacies had all proved signal failures as effective Governments, both in war and peace; and entirely

for the want of that form of structure and principle of combination that would reconcile absolute sovereignty in the nation with sovereignty in the States, as parts of one nation—as consistent and harmonious parts of one supreme sovereignty. This principle, unexplored and unknown before, was developed and displayed, most happily so, in the structure of our confederate and national republic.

“The work, now proposed to be published, will unfold to us all the steps of that diversified analysis and discovery which led to this happy and splendid result.

“Those who think (if any think) that the result itself, namely, the Constitution—of itself and by itself—will be enough for the instruction of mankind on this subject are much mistaken. For there is a vast difference between the knowledge which is acquired analytically, and that which is acquired synthetically; the latter is but isolated knowledge; the former is knowledge that is the consequence of other knowledge. Synthesis gives to us a general truth, but acquired in a mode that is barren of other fruit; analysis not only gives to us the same general truth, but puts us on the track of invention and discovery, and is always fertile of other, and often of better fruit: synthesis carries us to a fountain head, but never beyond; but analysis carries us beyond, and to the fountain of that fountain; it places us upon an eminence that overtops and overlooks the general truth in the wide survey it commands and gives to us; and as to that general truth, it enables us not only to comprehend it more perfectly, but to apply it more successfully. This is at once a branch and the general instrument of that primal philosophy of which BACON speaks, and whose cultivation he so highly recommends—the philosophy of philosophy; the common mother of all the sciences, and by which alone their boundaries can be extended. He compares

it to Berecynthia, whom the poets of old fabled to be the mother of all the Gods:—

“Omnes cælicolas, omnes supera alta tenentes.

Of such is the nature, and such will be the fruits to mankind, of the work now proposed to be given to the world.

“Further to awaken our sensibility on this subject, I need not remind the Senate how much we owe to a name that is to render the name of this country respectable in every other on this globe; the *clarum et venerabile nomen*. Nations have lived upon the earth who have become extinct, and been lost to the memory of mankind; but never when the *clarum et venerabile nomen* had illustrated their annals. The *clarum et venerabile nomen* is the true elixir of national immortality. What has this country—what can she ever have, that would be an equivalent to her in exchange for the name of her WASHINGTON—that star of stars in the diadems that sparkle on the brow of nations? Not the diadem that sparkles on the brow of Greece, not the diadem that sparkles on the brow of Rome, has one of equal brilliancy. No: it stands peerless on the earth, and alone in glory. Though it never can be a contest whose name is to do the most honour to our country, and more than all others, to carry her name associated with his, and emblazoned by his, down through all the endless generations of mankind to follow, and all the endless ages of time to come, yet among the names to cluster around his, and to form the constellation (may it multiply to a galaxy) of American worthies, not one will ever shine with a purer, with a brighter, or more inextinguishable lustre than that of MADISON.

“If, then, this appropriation was merely to express a nation’s gratitude to a nation’s benefactor, it would be the least it would

become her to make. But, besides that, we are to consider that it is to purchase for this country, and for mankind, a treasure of instruction, whose value no money can measure, no figures can express."

This resolution not being finally acted upon before the close of the session, a clause was introduced into the general appropriation bill, and passed on the 3d March, 1837, by which the sum of thirty thousand dollars was appropriated for the purchase of the manuscripts.

In accordance with this law, Mrs. MADISON, on the 1st April, 1837, delivered to the Secretary of State, for the United States, the manuscripts described in her conveyance in the following terms: "The Debates of the Convention which framed the Constitution of the United States, prepared by Mr. MADISON, together with the Debates taken by him in the Congress of the Confederation in 1782, 1783 and 1787, and selections made by himself, and prepared under his eye from his letters narrating the proceedings of that body during the periods of his service in it, with the Debates in 1776 on the Declaration of Independence by THOMAS JEFFERSON prefixed." These manuscripts in duplicate were placed in the Department of State.

At the first session of the twenty-fifth Congress, on the 12th September, 1837, on motion of Mr. LINN of Missouri, a resolution was passed by the Senate, instructing the Joint Library Committee to inquire into the expediency of causing the manuscripts deposited in the Department of State to be published. In compliance with these instructions, Mr. PRESTON of South Carolina, reported to the Senate, and Mr. PATTON of Virginia to the House of Representatives, a resolution from the Joint Library Committee, instructing them to ascertain whether the purchase of Mr. MADISON's work, authorized by

the appropriation of the preceding session of Congress had been made ; and if so, directing them to inquire into and report a plan for the publication of the same. These resolutions were passed on the 27th September, 1837.

At the same session, and on the 14th October following, an act was passed to carry into effect the last provision of the resolution reported at the preceding session, and the President was authorised to reconvey to Mrs. MADISON the right to publish in foreign countries, and for her own benefit, the manuscript Debates of the Convention which formed the Constitution ; but she was not to withdraw from the possession of the Government either of the copies of the Debates which had accompanied her conveyance ; and on the 5th February, 1838, Mr. PRESTON of South Carolina submitted a motion that the Committee on the Library be authorized to cause the MADISON PAPERS to be printed and published. This resolution, after being considered by the Senate as in Committee of the Whole, was, on the 7th February, on the motion of Mr. SEVIER of Arkansas, referred to the Library Committee. On the 4th of July following, Mr. WALL of New Jersey, from that committee, reported it back as a joint resolution, and recommended the necessary appropriation for the printing and publication of the papers. In that shape it passed the Senate, and was sent to the House of Representatives for concurrence.

On the 9th July the House of Representatives, after having had under consideration the resolution of the Senate, amended it by changing it into an act, in which form, it was passed, and being concurred in by the Senate and approved by the President on the same day, became a law in the following terms :

“ An act authorizing the printing of the Madison Papers.

“ Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the

Joint Committee on the Library be authorized to cause the MADISON PAPERS to be printed and published; and that a sum not exceeding five thousand dollars be appropriated for that purpose out of any money in the Treasury not otherwise appropriated."

On the 28th January, 1839, Mr. WALL of New Jersey, reported to the Senate, a contract made in pursuance of the act of Congress, by Messrs. ROBBINS of Rhode Island, and POPE of Kentucky, the Chairmen of the Joint Library Committee for the publication of the work in its present form, to be executed under the superintendence of Mr. GILPIN, the Solicitor of the Treasury. For this purpose, one of the duplicate manuscript copies, deposited by Mrs. MADISON, was withdrawn by the Library Committee from the Department of State, and delivered to the publishers.

In the publication thus directed it has been deemed to be a primary and indispensable duty to follow the manuscript with scrupulous care. It was not thought proper to admit any note or comment, even explanatory; and all those that are found, were in the manuscript deposited in the Department of State. No alteration of any sort from the copy furnished and revised by Mrs. MADISON, has been permitted, except the correction of a few slight and evident clerical errors, and the insertion of some dates and formal parts of official documents, for which blanks had been left.

The character of Mr. MADISON's work, however, and especially that part of it relating to the Congress of the Confederation, seemed to render a reference to cotemporary documents indispensable—at all events, it was necessary to save the reader much perplexity and trouble. The Debates and the Correspondence refer with brevity to a variety of subjects in the order of their occurrence, and also to the remarks, conduct

and opinions of many persons in public life. The corresponding portions of the public and secret journals, the published letters of official functionaries during the same period, and works in which are to be found cotemporary private letters or remarks on the same topics or by the same persons, afford explanations too important to be overlooked. Yet they are scattered through various volumes, and, even in them, are found or traced with difficulty. The printed journals of the confederation, both public and secret, are not only voluminous but very imperfect. Much of the proceedings of Congress is entirely omitted in both, and they are so incomplete that it is frequently impossible to trace with accuracy the details of legislation even on topics of great public interest. To the secret journals there is no index, and that annexed to the public journals is far from being full. The diplomatic correspondence, which is exceedingly valuable, and constantly illustrates the remarks of Mr. MADISON and the debates he has preserved, extends through nineteen volumes; and the letters of many of the eminent men referred to, which treat of the same topics, are only to be found in various works subsequently published from time to time.

It has been thought, therefore, that it would be proper to make a brief reference at the end of the volumes to some of the principal of these passages; but in such a manner as not, in the slightest degree, to interfere or connect them with the text of Mr. MADISON himself. They are annexed only in the belief that they will be of service to the reader and may facilitate his researches. They are not as numerous as they might have been made, perhaps with additional advantage; and the form of a simple reference has been alone adopted, because it was not intended to introduce any commentary or remarks. The fulness and accuracy of these references have been

increased in a very great degree by the researches and aid of Mr. SPARKS of Cambridge, Mr. SMITH, the librarian of the Philadelphia library, Mr. WALL of New Jersey, Mr. ATHERTON and Mr. HILL of New Hampshire, Mr. DIX of Albany, Mr. SHUNK of Harrisburg, and Mr. FORCE of Washington.

Explanatory tables of contents have been prepared and prefixed to each volume of the work, and a copious index has been added to the whole. Though not forming a part of the manuscript of Mr. MADISON, they are thought to be indispensable.

WASHINGTON, 1st *January*, 1840.

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DEBATES

IN THE

CONGRESS OF THE CONFEDERATION,

AS TAKEN DOWN IN THE YEARS 1782, 1783 AND 1787,

BY JAMES MADISON,

THEN A MEMBER,

WITH LETTERS AND EXTRACTS OF LETTERS FROM HIM

DURING THE PERIODS OF HIS SERVICE IN

THAT CONGRESS.

TO WHICH ARE PREFIXED

THE DEBATES IN 1776, ON THE DECLARATION OF INDEPENDENCE, AND ON A FEW OF THE
ARTICLES OF CONFEDERATION,

PRESERVED BY THOMAS JEFFERSON.

PREFATORY NOTE.

Mr. Madison took his seat in the Congress of the Confederation on the twentieth day of March, 1780, but did not commence his diary of its Debates till the fourth of November, 1782. It was continued through the sequel of that year, and until the removal of Congress was decided, on the twenty-first of June, 1783, from Philadelphia to Princeton, where the task was not renewed.

In February, 1787, being again a member, he resumed his diary, which was continued till the second of May of that year, when he left Congress to give his attendance in the approaching Convention at Philadelphia which was to prepare a new Constitution for the United States.

On the close of that Convention he returned to his seat in Congress, which he held till March, 1788, when he was called to Virginia with a view to his being elected to the State Convention which was to decide on the Constitution proposed by the General Convention. During this period it appears that no diary was kept, the effect perhaps of the share he had in writing the Federalist. Nor was it resumed in the interval between his return from the close of

the State Convention, and his final departure from Congress, then in the last stage of its existence, to become a candidate for a seat in the approaching House of Representatives under the new Constitution.

The series of debates now published, though generally condensed into their substance, are not without more detailed discussions on particular topics; and being—with the exception of the debates in 1776 on the Declaration of Independence and on a few of the Articles of Confederation, preserved by Mr. Jefferson, which are also prefixed—the only known or probable materials of what passed in Congress in that form, they cannot fail to be particularly acceptable to the public. The periods of the diary comprise much that has been least known, and is of a nature to gratify a just curiosity.

As Mr. Madison was engaged, whilst a member of the old Congress, in regular, and often confidential correspondences,* with several distinguished friends some of them at that time his absent colleagues, it was thought that a number of his letters and extracts from others in which he gives information of what occurred in Congress, as well as what related to the public affairs generally, might advantageously

* His letters of an important and secret nature to Mr. Jefferson and Mr. Randolph were written in cypher; but decyphered under his eye, except a few, of a cypher used a short time with Mr. Randolph, the key to which could not be discovered.

make a part of this publication. Such of the communications as were contemporary with the diary often add to the lights which it affords, and such as belong to the periods prior and subsequent to it will often supply its place, and sometimes perhaps more than supply it.

If the letters or extracts occasionally repeat what is in the diary, or being written to different correspondents, repeat in one what was said in another, the instances are not numerous, and could not be avoided without mutilations more objectionable than the repetitions.

It cannot be amiss to remark, that the letters derive a value not only from their perfect authenticity, and from the position of the writer as a member of Congress, but from the consideration that they were written without a thought that they would ever meet the public eye. So entirely absent was such a thought, that no copies, with scarce an exception, were, or indeed considering the number, the frequency and the haste of the letters and the situation of the writer, could be retained. And it was owing to the kindness of his correspondents or their representatives, that the originals here used make a part of his files. It is regretted that some of those originals were not effectually guarded against damage, and that others appear to be missing.

It became a question what was the most suitable

order for the debates and the letters. As the latter fill a long period between March, 1780, and November, 1782, the commencement of the debates, and involve what passed in Congress not on record, it has been thought best to consult the order of time, as being also the order of things, and to make the letters of this period a preliminary to the debates. The letters contemporary with and subsequent to each period of the debates follow them. An abstract of observations of Mr. Barbe de Marbois, then Secretary to the French Legation, on the boundary between the Spanish settlements and the United States; the address of Congress to the States, of the twenty-sixth of April, 1783, drawn by Mr. Madison, and that to Rhode Island referred to in it as No. 2, drawn by Mr. Hamilton; and a letter from Mr. Madison to Mr. Hezekiah Niles, of the eighth of January, 1822, correcting an erroneous view in Ramsay's History of what passed in this Congress regarding the Mississippi, are added as an Appendix to this portion of the work.

GLOSSARY.

COMMUTATION.—An allowance of five years full pay in lieu of half-pay for life.

FACILITIES.—Provisions, tobacco and other supplies received in payment of Government dues instead of money

INDENTS.—An evidence of public debt given in exchange for depreciated paper of other denominations,—deducting the depreciation.

THE DEBATES IN 1776,
ON THE
DECLARATION OF INDEPENDENCE,
AND
ON A FEW OF THE ARTICLES OF THE CONFEDERATION,
PRESERVED BY THOMAS JEFFERSON.

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IN CONGRESS, FRIDAY, JUNE 7th 1776.

The Delegates from Virginia moved, in obedience to instructions from their constituents, that the Congress should declare that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all obedience to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; that measures should be immediately taken for procuring the assistance of foreign powers, and a Confederation be formed to bind the Colonies more closely together.

The House being obliged to attend at that time to some other business, the proposition was referred to the next day, when the members were ordered to attend punctually at ten o'clock.

[* These Debates were given to Mr. Madison, in Mr. Jefferson's own handwriting, as now on file among Mr. Madison's papers. They are prefixed as forming a part of the only materials known to exist in the form of Debates within the Revolutionary Congress]

Saturday, June 8th. They proceeded to take it into consideration, and referred it to a Committee of the Whole, into which they immediately resolved themselves, and passed that day and Monday the tenth, in debating the subject.

It was argued by Wilson, Robert R. Livingston, E. Rutledge, Dickenson and others :

That, though they were friends to the measures themselves, and saw the impossibility that we should ever again be united with Great Britain, yet they were against adopting them at this time :

That the conduct we had formerly observed was wise and proper now, of deferring to take any capital step till the voice of the people drove us into it :

That they were our power, and without them our declarations could not be carried into effect :

That the people of the middle Colonies (Maryland, Delaware, Pennsylvania, the Jerseys and New York) were not yet ripe for bidding adieu to British connection ; but that they were fast ripening, and in a short time would join in the general voice of America :

That the resolution entered into by this House on the fifteenth of May, for suppressing the exercise of all powers derived from the Crown, had shewn, by the ferment into which it had thrown these middle Colonies, that they had not yet accommodated their minds to a separation from the mother country :

That some of them had expressly forbidden their Delegates to consent to such a declaration, and others had given no instructions, and consequently no powers to give such consent :

That if the Delegates of any particular Colony

had no power to declare such Colony independent, certain they were, the others could not declare it for them, the Colonies being as yet perfectly independent of each other:

That the Assembly of Pennsylvania was now sitting above stairs, their Convention would sit within a few days, the Convention of New York was now sitting, and those of the Jerseys and Delaware counties would meet on the Monday following, and it was probable these bodies would take up the question of Independence, and would declare to their Delegates the voice of their State:

That if such a declaration should now be agreed to, these Delegates must retire, and possibly their Colonies might secede from the Union:

That such a secession would weaken us more than could be compensated by any foreign alliance:

That in the event of such a decision, foreign powers would either refuse to join themselves to our fortunes, or having us so much in their power, as that desperate declaration would place us, they would insist on terms proportionably more hard and prejudicial:

That we had little reason to expect an alliance with those to whom alone, as yet, we had cast our eyes:

That France and Spain had reason to be jealous of that rising power which would one day certainly strip them of all their American possessions:

That it was more likely they should form a connection with the British Court, who, if they should find themselves unable otherwise to extricate themselves from their difficulties, would agree to a partition of our territories, restoring Canada to France,

and the Floridas to Spain, to accomplish for themselves a recovery of these Colonies :

That it would not be long before we should receive certain information of the disposition of the French Court, from the agent whom we had sent to Paris for that purpose :

That if this disposition should be favorable, by waiting the event of the present campaign, which we all hoped would be successful, we should have reason to expect an alliance on better terms :

That this would in fact work no delay of any effectual aid from such ally, as, from the advance of the season, and distance of our situation, it was impossible we could receive any assistance during this campaign :

That it was prudent to fix among ourselves the terms on which we would form alliance, before we declared we would form one at all events :

And that if these were agreed on, and our Declaration of Independence ready by the time our Ambassador was ready to sail, it would be as well, as to go into that Declaration at this day.

On the other side it was urged by J. Adams, Lee, Wythe and others :

That no gentleman had argued against the policy or the right of separation from Britain, nor had supposed it possible we should ever renew our connection; that they had only opposed its being now declared :

That the question was not whether, by a Declaration of Independence, we should make ourselves what we are not, but whether we should declare a fact which already exists :

That, as to the people or Parliament of England, we had always been independent of them, their restraints on our trade deriving efficacy from our acquiescence only, and not from any rights they possessed of imposing them, and that so far our connection had been federal only, and was now dissolved by the commencement of hostilities :

That, as to the King, we had been bound to him by allegiance, but that this bond was now dissolved by his assent to the late Act of Parliament by which he declares us out of his protection, and by his levying war on us, a fact which had long ago proved us out of his protection ; it being a certain position in law that allegiance and protection are reciprocal, the one ceasing when the other is withdrawn :

That James the Second never declared the people of England out of his protection ; yet his actions proved it, and the Parliament declared it :

No Delegates then can be denied, or ever want, a power of declaring an existent truth :

That the Delegates from the Delaware counties having declared their constituents ready to join, there are only two Colonies, Maryland and Pennsylvania, whose Delegates are absolutely tied up, and that these had by their instructions only reserved a right of confirming or rejecting the measure :

That the instructions from Pennsylvania might be accounted for from the times in which they were drawn, near a twelve-month ago, since which the face of affairs has totally changed :

That within that time it has become apparent that Britain was determined to accept nothing less than a *carte-blanche*, and that the King's answer to the Lord

Mayor, Aldermen and Common Council of London, which had come to hand four days ago, must have satisfied every one of this point :

That the people wait for us to lead the way :

That *they* are in favor of the measure, though the instructions given by some of their *representatives* are not :

That the voice of the representatives is not always consonant with the voice of the people, and this is remarkably the case in these middle Colonies :

That the effect of the resolution of the fifteenth of May has proved this, which, raising the murmurs of some in the Colonies of Pennsylvania and Maryland, called forth the opposing voice of the freer part of the people, and proved them to be the majority even in these Colonies :

That the backwardness of these two Colonies might be ascribed partly to the influence of proprietary power and connections, and partly to their having not yet been attacked by the enemy :

That these causes were not likely to be soon removed, as there seemed no probability that the enemy would make either of these the seat of this summer's war :

That it would be vain to wait either weeks or months for perfect unanimity, since it was impossible that all men should ever become of one sentiment on any question :

That the conduct of some Colonies, from the beginning of this contest, had given reason to suspect it was their settled policy to keep in the rear of this Confederacy, that their particular prospect might be better, even in the worst event :

That therefore it was necessary for those Colonies who had thrown themselves forward and hazarded all from the beginning, to come forward now also, and put all again to their own hazard :

That the history of the Dutch revolution, of whom only three States confederated at first, proved that a secession of some Colonies could not be so dangerous as some apprehended :

That a Declaration of Independence alone could render it consistent with European delicacy for European powers to treat with us, or even to receive an Ambassador from us :

That till this, they would not receive our vessels into their ports, nor acknowledge the adjudications of our courts of admiralty to be legitimate, in cases of capture of British vessels :

That though France and Spain may be jealous of our rising power, they must think it will be much more formidable with the addition of Great Britain, and will therefore see it their interest to prevent a coalition; but should they refuse, we shall be but where we are; whereas without trying we shall never know whether they will aid us or not :

That the present campaign may be unsuccessful, and therefore we had better propose an alliance while our affairs wear a hopeful aspect :

That to await the event of this campaign will certainly work delay, because during this summer, France may assist us effectually, by cutting off those supplies of provisions from England and Ireland, on which the enemy's armies here are to depend; or by setting in motion the great powers they have collected in the West Indies, and calling our enemy to the defence of the possessions they have there :

That it would be idle to lose time in settling the terms of alliance, till we had first determined we would enter into alliance :

That it is necessary to lose no time in opening a trade for our people, who will want clothes, and will want money too for the payment of taxes :

And that the only misfortune is, that we did not enter into alliance with France six months sooner, as, besides opening their ports for the vent of our last years produce, they might have marched an army into Germany and prevented the petty princes there from selling their unhappy subjects to subdue us.

It appearing from the course of these debates that the Colonies of New York, New Jersey, Pennsylvania, Delaware and Maryland were not matured for falling from the parent stem, but that they were fast advancing to that state, it was thought most prudent to wait awhile for them, and to postpone the final decision to the first of July, but that this might occasion as little delay as possible, a committee was appointed to prepare a Declaration of Independence. The committee were J. Adams, Dr. Franklin, Roger Sherman, Robert R. Livingston and myself. Committees were also appointed at the same time to prepare a plan of confederation for the Colonies, and to state the terms proper to be proposed for foreign alliance. The committee for drawing the Declaration of Independence desired me to do it. It was accordingly done, and being approved by them I reported it to the House on Friday the twenty-eighth of June, when it was read and ordered to lie on the table. On Monday the first of July the House resolved itself into a Committee of the Whole, and resumed the consideration of the original

motion made by the Delegates of Virginia; which, being again debated through the day, was carried in the affirmative by the votes of New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, Maryland, Virginia, North Carolina, and Georgia. South Carolina and Pennsylvania voted against it. Delaware having but two members present, they were divided: the Delegates from New York declared they were for it themselves, and were assured their constituents were for it, but that their instructions having been drawn near a twelve-month before, when reconciliation was still the general object, they were enjoined by them to do nothing which should impede that object; they therefore thought themselves not justifiable in voting on either side, and asked leave to withdraw from the question, which was given them. The committee rose and reported their resolution to the House. Mr. Rutledge, of South Carolina, then requested the determination might be put off to the next day, as he believed his colleagues, though they disapproved of the resolution, would then join in it for the sake of unanimity. The ultimate question whether the House would agree to the resolution of the committee, was accordingly postponed to the next day, when it was again moved, and South Carolina concurred in voting for it. In the meantime a third member had come post from the Delaware counties, and turned the vote of that colony in favor of the resolution. Members of a different sentiment attending that morning also from Pennsylvania, their vote was changed, so that the whole twelve Colonies, who were authorized to vote at all gave their voices for it: and within a few days the

Convention of New York approved of it, and thus supplied the void occasioned by the withdrawing of their delegates from the vote.

Congress proceeded the same day to consider the Declaration of Independence, which had been reported and laid on the table the Friday preceding, and on Monday referred to a Committee of the Whole. The pusillanimous idea that we had friends in England worth keeping terms with, still haunted the minds of many; for this reason those passages which conveyed censure on the people of England were struck out lest they should give them offence. The clause too reprobating the enslaving the inhabitants of Africa was struck out, in compliance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who on the contrary still wished to continue it. Our Northern brethren also, I believe, felt a little tender under those censures; for though their people have very few slaves themselves, yet they had been pretty considerable carriers of them to others. The debates having taken up the greater parts of the second, third, and fourth days of July, were, in the evening of the last, closed; the Declaration was reported by the committee, agreed to by the House, and signed by every member except Mr. Dickenson. As the sentiments of men are known not only by what they receive, but what they reject also, I will state the form of the Declaration as originally reported. The parts struck out by Congress shall be distinguished by a black line drawn under them [*Italics*]; those inserted by them shall be placed in the margin or in a concurrent column.

A Declaration by the Representatives of the United States of America in [*General*] Congress assembled:

When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with [*inherent and*] inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence indeed will dictate that governments long established should not be changed for light and transient causes; and accordingly

certain

all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations [*begun at a distinguished period and*] pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter [*expunge*] their former systems of government. The history of the present King of Great Britain is a history of repeated [*unremitting*] injuries and usurpations [*among which appears no solitary fact to contradict the uniform tenor of the rest, but all have*] in direct object the establishment of an absolute tyranny over these States. To prove this let facts be submitted to a candid world, [*for the truth of which we pledge a faith yet unsullied by falsehood*]. He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, [*and continually*] for opposing with manly firmness his invasion on the rights of the people.

He has refused for a long time after such dissolutions to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining in the meantime exposed to all the dangers of invasion from without and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage their migrations hither, and raising the conditions of new appropriations of lands.

He has [*suffered*] the administration of ^{obstructed} justice [*totally to cease in some of these States*], refusing his assent to laws for estab- ^{by} lishing judiciary powers.

He has made [*our*] judges dependent on his will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices [*by a self-assumed power*], and sent hither swarms of new officers to harass our people and eat out their substance.

He has kept among us in times of peace standing armies [*and ships of war*] without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitutions and unacknowledged by our laws; giving his assent to their acts of pretended legislation; for quartering large bodies of armed troops among us; for protecting them by a mock trial from punishment for any murders which they should commit on the inhabitants of these States; for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us [] of the benefits of trial by jury; for transporting us beyond seas to be tried for pretended offences; for abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the

in many
cases

same absolute rule into these [*States*]; for colonies taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments; for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here [*withdrawing his governors and declaring us out of his allegiance and protection.*]

by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny already begun with circumstances of cruelty and perfidy [] unworthy the head of a civilized nation.

scarcely paralleled in the most barbarous ages, and totally

He has constrained our fellow-citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has [] endeavoured to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions [*of existence.*]

excited domestic insurrections among us, and has

[*He has incited treasonable insurrections of our fellow-citizens, with the allurements of forfeiture and confiscation of our property.*]

He has waged cruel war against human nature itself; violating its most sacred rights of life and liberty in the persons of a distant people who never offended him; captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the christian King of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce; and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them by murdering the people on whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.]

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injuries. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a [] people [*who mean to be free.* Future ages will scarcely believe that the hardiness of one man adven-

tured, within the short compass of twelve years only, to lay a foundation so broad and undisguised for tyranny over a people fostered and fixed in principles of freedom.]

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend [*a*] jurisdiction over [*these our States.*] We have re-^{an unwarrantable}
^{us} minded them of the circumstances of our emigration and settlement here, [*no one of which could warrant so strange a pretension; that these were effected at the expense of our own blood and treasure, unassisted by the wealth or strength of Great Britain: that in constituting indeed our several forms of government, we had adopted one common king, thereby laying a foundation for perpetual league and amity with them: but that submission to their Parliament was no part of our Constitution, nor ever in idea, if history may be credited: and*] we [] appealed to^{have} their native justice and magnanimity [*as*^{and we have}
^{conjured them}
^{by} *well as to*] the ties of our common kindred to disavow these usurpations which [*were likely to*] interrupt our connection^{would inevitably} and correspondence. They too have been deaf to the voice of justice and of consanguinity. [, and when occasions have been given them, by the regular course of their laws, of removing from their councils the disturbers of our harmony they have, by their free election, re-established them in

power. At this very time too, they are permitting their chief magistrate to send over not only soldiers of our common blood, but Scotch and foreign mercenaries to invade and destroy us. These facts have given the last stab to agonizing affection, and manly spirit bids us to renounce for ever these unfeeling brethren. We must endeavor to forget our former love for them, and to hold them as we hold the rest of mankind, enemies in war, in peace friends. We might have been a free and a great people together; but a communication of grandeur and of freedom, it seems, is below their dignity. Be it so since they will have it. The road to happiness and to glory is open to us too. We will tread it apart from them, and [] *acquiesce in the necessity which denounces our [eternal] separation []!*

We must therefore
and hold them
as we hold the
rest of man-
kind, enemies
in war, in
peace friends.

We therefore the Representatives of the United States of America in General Congress assembled appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies solemnly publish and declare, that these United Colonies are and of right

do, in the name and by the authority of the good people of these [States, reject and renounce all allegiance and subjection to the Kings of Great Britain and all others who may hereafter claim by, through, or under them; we utterly dissolve

ought to be free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be totally dissolved;

all political connection which may heretofore have subsisted between us, and the people or Parliament of Great Britain; and finally we do assert and declare these Colonies to be free and independent States,]

and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do.

And for the support of this declaration, [] we mutually pledge to each other our lives, our fortunes, and our sacred honor.

with a firm
reliance on
the protection
of Divine
Providence.

On Friday, the twelfth of July, the committee appointed to draw the articles of confederation reported them, and on the twenty-second, the House resolved themselves into a committee to take them into consideration. On the thirtieth and thirty-first of that month, and the first of the ensuing, those articles were debated which determined the proportion or quota of money which each State should furnish to the common treasury, and the manner of voting in Congress. The first of these articles was expressed in the original draught in these words:

‘ARTICLE XI. All charges of war and all other expenses that shall be incurred for the common

defence, or general welfare, and allowed by the United States assembled, shall be defrayed out of a common treasury, which shall be supplied by the several Colonies in proportion to the number of inhabitants of every age, sex and quality, except Indians not paying taxes, in each Colony, a true account of which, distinguishing the white inhabitants, shall be triennially taken and transmitted to the Assembly of the United States.'

Mr. Chase moved, that the quotas should be paid, not by the number of inhabitants of every condition but by that of the 'white inhabitants.' He admitted that taxation should be always in proportion to property; that this was in theory the true rule, but that from a variety of difficulties it was a rule which could never be adopted in practice. The value of the property in every State could never be estimated justly and equally. Some other measure for the wealth of the State must therefore be devised, some standard referred to which would be more simple. He considered the number of inhabitants as a tolerably good criterion of property, and that this might always be obtained. He therefore thought it the best mode we could adopt, with one exception only. He observed that negroes are property, and as such cannot be distinguished from the lands or personalities held in those States where there are few slaves. That the surplus of profit which a Northern farmer is able to lay by, he invests in cattle, horses, &c.; whereas, a Southern farmer lays out that same surplus in slaves. There is no more reason therefore for taxing the Southern States on the farmer's head and on his slave's head, than the Northern ones on their

farmers' heads and the heads of their cattle. That the method proposed would therefore tax the Southern States according to their numbers and their wealth conjunctly, while the Northern would be taxed on numbers only: that negroes in fact should not be considered as members of the state, more than cattle, and that they have no more interest in it.

Mr. John Adams observed, that the numbers of people were taken by this article as an index of the wealth of the State, and not as subjects of taxation. That as to this matter it was of no consequence by what name you called your people, whether by that of freemen or of slaves. That in some countries the laboring poor were called freemen, in others they were called slaves: but that the difference as to the State was imaginary only. What matters it whether a landlord employing ten laborers on his farm gives them annually as much money as will buy them the necessaries of life, or gives them those necessaries at short hand? The ten laborers add as much wealth annually to the State, increase its exports as much, in the one case as the other. Certainly five hundred freemen produce no more profits, no greater surplus for the payment of taxes, than five hundred slaves. Therefore the State in which are the laborers called freemen, should be taxed no more than that in which are those called slaves. Suppose, by any extraordinary operation of nature or of law, one half the laborers of a State could in the course of one night be transformed into slaves,—would the State be made the poorer, or the less able to pay taxes? That the condition of the laboring poor in most countries,—that of the fishermen, particularly, of the Northern States,

—is as abject as that of slaves. It is the number of laborers which produces the surplus for taxation; and numbers, therefore, indiscriminately, are the fair index of wealth. That it is the use of the word ‘property’ here, and its application to some of the people of the State, which produces the fallacy. How does the Southern farmer procure slaves? Either by importation or by purchase from his neighbour. If he imports a slave, he adds one to the number of laborers in his country, and proportionably to its profits and abilities to pay taxes; if he buys from his neighbour, it is only a transfer of a laborer from one farm to another, which does not change the annual produce of the State, and therefore should not change its tax; that if a Northern farmer works ten laborers on his farm, he can, it is true, invest the surplus of ten men’s labor in cattle; but so may the Southern farmer working ten slaves. That a State of one hundred thousand freemen can maintain no more cattle than one of one hundred thousand slaves; therefore they have no more of that kind of property. That a slave may, indeed, from the custom of speech, be more properly called the wealth of his master, than the free laborer might be called the wealth of his employer: but as to the State, both were equally its wealth, and should therefore equally add to the quota of its tax.

Mr. Harrison proposed, as a compromise, that two slaves should be counted as one freeman. He affirmed that slaves did not do as much work as freemen, and doubted if two effected more than one. That this was proved by the price of labor, the hire of a laborer in the Southern Colonies being from £8 to £12, while in the Northern it was generally £24.

Mr. Wilson said, that if this amendment should take place, the Southern Colonies would have all the benefit of slaves, whilst the Northern ones would bear the burthen. That slaves increase the profits of a State, which the Southern States mean to take to themselves; that they also increase the burthen of defence, which would of course fall so much the heavier on the Northern; that slaves occupy the places of freemen and eat their food. Dismiss your slaves, and freemen will take their places. It is our duty to lay every discouragement on the importation of slaves; but this amendment would give the *jus trium liberorum* to him who would import slaves. That other kinds of property were pretty equally distributed through all the Colonies: there were as many cattle, horses, and sheep, in the North as the South, and South as the North; but not so as to slaves: that experience has shown that those Colonies have been always able to pay most, which have the most inhabitants, whether they be black or white; and the practice of the Southern Colonies has always been to make every farmer pay poll taxes upon all his laborers, whether they be black or white. He acknowledged indeed that freemen work the most; but they consume the most also. They do not produce a greater surplus for taxation. The slave is neither fed nor clothed so expensively as a freeman. Again, white women are exempted from labor generally, which negro women are not. In this then the Southern States have an advantage as the article now stands. It has sometimes been said that slavery was necessary, because the commodities they raise would be too dear for market if cultivated by freemen; but now it is said that the labor of the slave is the dearest.

Mr. Payne urged the original resolution of Congress, to proportion the quotas of the States to the number of souls.

Doctor Witherspoon was of opinion, that the value of lands and houses was the best estimate of the wealth of a nation, and that it was practicable to obtain such a valuation. This is the true barometer of wealth. The one now proposed is imperfect in itself, and unequal between the States. It has been objected that negroes eat the food of freemen, and therefore should be taxed: horses also eat the food of freemen; therefore they also should be taxed. It has been said too, that in carrying slaves into the estimate of the taxes the State is to pay, we do no more than those States themselves do, who always take slaves into the estimate of the taxes the individual is to pay. But the cases are not parallel. In the southern Colonies slaves pervade the whole Colony; but they do not pervade the whole continent. That as to the original resolution of Congress, it was temporary only, and related to the moneys heretofore emitted: whereas we are now entering into a new compact, and therefore stand on original ground.

August 1st. The question being put, the amendment proposed was rejected by the votes of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey and Pennsylvania, against those of Delaware, Maryland, Virginia, North, and South Carolina. Georgia was divided.¹

The other article was in these words:

‘ARTICLE XVII. In determining questions, each Colony shall have one vote.’

July 30th, 31st, August 1st,—Present forty-one members.

Mr. Chase observed, that this article was the most likely to divide us, of any one proposed in the draught then under consideration. That the larger Colonies had threatened they would not confederate at all, if their weight in Congress should not be equal to the numbers of people they added to the confederacy; while the smaller ones declared against a union, if they did not retain an equal vote for the protection of their rights. That it was of the utmost consequence to bring the parties together, as, should we sever from each other, either no foreign power will ally with us at all, or the different States will form different alliances, and thus increase the horrors of those scenes of civil war and bloodshed, which in such a state of separation and independence, would render us a miserable people. That our importance, our interests, our peace, required that we should confederate, and that mutual sacrifices should be made to effect a compromise of this difficult question. He was of opinion the smaller Colonies would lose their rights, if they were not in some instances allowed an equal vote, and therefore, that a discrimination should take place among the questions which would come before Congress. That the smaller States should be secured in all questions concerning life or liberty, and the greater ones in all respecting property. He therefore proposed, that in votes relating to money, the voice of each colony should be proportioned to the number of its inhabitants.

Doctor Franklin thought, that the votes should be so proportioned in all cases. He took notice that the

Delaware counties had bound up their Delegates to disagree to this article. He thought it a very extraordinary language to be held by any State, that they would not confederate with us unless we would let them dispose of our money. Certainly, if we vote equally, we ought to pay equally: but the smaller States will hardly purchase the privilege at this price. That had he lived in a State where the representation, originally equal, had become unequal by time and accident, he might have submitted rather than disturb government: but that we should be very wrong to set out in this practice when it is in our power to establish what is right. That at the time of the Union between England and Scotland, the latter had made the objection which the smaller States now do, but experience had proved that no unfairness had ever been shown them. That their advocates had prognosticated, that it would again happen as in times of old, that the whale would swallow Jonas; but he thought the prediction reversed in the event, and that Jonas had swallowed the whale, for the Scotch had in fact got possession of the government, and gave laws to the English. He reprobated the original agreement of Congress to vote by Colonies, and therefore was for their voting in all cases according to the number of taxables.

Doctor Witherspoon opposed every alteration of the article. All men admit that a confederacy is necessary. Should the idea get abroad that there is likely to be no union among us, it will damp the minds of the people, diminish the glory of our struggle, and lessen its importance; because it will open to our view future prospects of war and dissension

among ourselves. If an equal vote be refused, the smaller States will become vassals to the larger; and all experience has shown that the vassals and subjects of free States are the most enslaved. He instanced the Helots of Sparta and the provinces of Rome. He observed that foreign powers, discovering this blemish, would make it a handle for disengaging the smaller States from so unequal a confederacy. That the Colonies should in fact be considered as individuals; and that as such, in all disputes, they should have an equal vote. That they are now collected as individuals making a bargain with each other, and of course had a right to vote as individuals. That in the East India Company they voted by persons and not by their proportion of stock. That the Belgic confederacy voted by provinces. That in questions of war the smaller States were as much interested as the larger, and therefore should vote equally; and indeed that the larger States were more likely to bring war on the confederacy, in proportion as their frontier was more extensive. He admitted that equality of representation was an excellent principle; but then it must be of things which are co-ordinate; that is, of things similar, and of the same nature: that nothing relating to individuals could ever come before Congress, nothing but what would respect Colonies. He distinguished between an incorporating and a federal union. The union of England was an incorporating one; yet Scotland had suffered by that union: for its inhabitants were drawn from it by the hopes of places and employments. Nor was it an instance of equality of representation; because, while Scotland was

allowed nearly a thirteenth of representation, they were to pay only one-fortieth of the land tax. He expressed his hopes that in the present enlightened state of men's minds we might expect a lasting confederacy, if it was founded on fair principles.

John Adams advocated the voting in proportion to numbers. He said that we stand here as the representatives of the people. That in some States the people are many, in others they are few; that therefore their vote here should be proportioned to the numbers from whom it comes. Reason, justice and equity never had weight enough on the face of the earth to govern the councils of men. It is interest alone which does it, and it is interest alone which can be trusted. That therefore the interest within doors should be the mathematical representative of the interest without doors. That the individuality of the Colonies is a mere sound. Does the individuality of a Colony increase its wealth or numbers? If it does, pay equally. If it does not add weight in the scale of the confederacy, it cannot add to their rights, nor weigh in argument. A. has £50, B. £500, C. £1000, in partnership. Is it just, should they equally dispose of the moneys of the partnership? It has been said, we are independent individuals making a bargain together. The question is not, what we are now, but what we ought to be when our bargain shall be made. The confederacy is to make us one individual only; it is to fuse us, like separate parcels of metal, into one common mass. We shall no longer retain our separate individuality, but become a single individual, as to all questions submitted to the confederacy. Therefore

all those reasons which prove the justice and expediency of equal representation in other assemblies, hold good here. It has been objected, that a proportional vote will endanger the smaller States. We answer, that an equal vote will endanger the larger. Virginia, Pennsylvania and Massachusetts are the three greater Colonies. Consider their distance, their difference of produce, of interest and manners, and it is apparent they can never have an interest or inclination to combine for the oppression of the smaller. That the smaller will naturally divide on all questions with the larger. Rhode Island, from its relation, similarity and intercourse, will generally pursue the same objects with Massachusetts; Jersey, Delaware and Maryland, with Pennsylvania.

Doctor Rush took notice, that the decay of the liberties of the Dutch Republic proceeded from three causes: 1st. The perfect unanimity requisite on all occasions. 2d. Their obligation to consult their constituents. 3d. Their voting by provinces. This last destroyed the equality of representation; and the liberties of Great Britain also are sinking from the same defect. That a part of our rights are deposited in the hands of our legislatures: there it was admitted there should be an equality of representation. Another part of our rights is deposited in the hands of Congress: why is it not equally necessary there should be an equal representation there? Were it possible to collect the whole body of the people together, they would determine the questions submitted to them, by their majority. Why should not the same majority decide, when voting here by their representatives? The larger Colonies are so providen-

tially divided in situation as to render every fear of their combining visionary. Their interests are different, and their circumstances dissimilar. It is more probable they will become rivals, and leave it in the power of the smaller States to give preponderance to any scale they please. The voting by the number of free inhabitants will have one excellent effect, that of inducing the Colonies to discourage slavery, and to encourage the increase of their free inhabitants.

Mr. Hopkins observed, there were four larger, four smaller, and four middle sized Colonies. That the four largest would contain more than half the inhabitants of the confederating States, and therefore would govern the others as they should please. That history affords no instance of such a thing as equal representation. The Germanic body votes by States. The Helvetic body does the same; and so does the Belgic confederacy. That too little is known of the ancient confederations to say what was their practice.

Mr. Wilson thought, that taxation should be in proportion to wealth, but that representation should accord with the number of freemen. That government is a collection or the result of the wills of all. That if any government could speak the will of all, it would be perfect; and that so far as it departs from this it becomes imperfect. It has been said that Congress is a representation of States, not individuals. I say that the objects of its care are all the individuals of the States. It is strange that annexing the name of 'State' to ten thousand men, should give them an equal right with forty thousand. This must be the effect of magic, not of reason. As to those matters

which are referred to Congress, we are not so many States; we are one large State. We lay aside our individuality whenever we come here. The Germanic body is a burlesque on government; and their practice on any point is a sufficient authority and proof that it is wrong. The greatest imperfection in the constitution of the Belgic confederacy is their voting by provinces. The interest of the whole is constantly sacrificed to that of the small States. The history of the war in the reign of Queen Anne sufficiently proves this. It is asked, shall nine colonies put it into the power of four to govern them as they please? I invert the question, and ask, shall two million of people put it into the power of one million to govern them as they please? It is pretended too, that the smaller colonies will be in danger from the greater. Speak in honest language, and say the minority will be in danger from the majority. And is there an assembly on earth where this danger may not be equally pretended? The truth is, that our proceedings will then be consentaneous with the interests of the majority; and so they ought to be. The probability is much greater, that the larger States will disagree, than that they will combine. I defy the wit of man to invent a possible case, or to suggest any one thing on earth which shall be for the interest of Virginia, Pennsylvania and Massachusetts, and which will not be for the interest also of the other States.³

LETTERS
OF
JAMES MADISON,
PRECEDING THE DEBATES OF 1783.

LETTERS

PRECEDING THE DEBATES OF 1783.

TO THOMAS JEFFERSON.*

Philadelphia, March 27, 1780.

DEAR SIR,

Nothing under the title of news has occurred since I wrote last week by express, except that the enemy on the first of March remained in the neighbourhood of Charleston, in the same posture as when the preceding account came away. From the best intelligence from that quarter, there seems to be great encouragement to hope that Clinton's operations will be again frustrated. Our great apprehensions at present flow from a very different quarter. Among the various conjunctures of alarm and distress which have arisen in the course of the Revolution, it is with pain I affirm to you, sir, that no one can be singled out more truly critical than the present. Our army threatened with an immediate alternative of disbanding or living on free quarter; the public treasury empty; public credit exhausted, nay the private credit of purchasing agents employed, I am told, as far as it will bear; Congress complaining of the extortion of the people; the people of the improvidence of Congress; and the army of both; our affairs requiring the most mature and systematic measures,

* Then Governor of Virginia.

and the urgency of occasions admitting only of temporizing expedients, and these expedients generating new difficulties; Congress recommending plans to the several States for execution, and the States separately rejudging the expediency of such plans, whereby the same distrust of concurrent exertions that has damped the ardor of patriotic individuals must produce the same effect among the States themselves; an old system of finance discarded as incompetent to our necessities, an untried and precarious one substituted, and a total stagnation in prospect between the end of the former and the operation of the latter. These are the outlines of the picture of our public situation. I leave it to your own imagination to fill them up. Believe me, sir, as things now stand, if the States do not vigorously proceed in collecting the old money, and establishing funds for the credit of the new, that we are undone; and let them be ever so expeditious in doing this, still the intermediate distress to our army, and hindrance to public affairs, are a subject of melancholy reflection. General Washington writes that a failure of bread has already commenced in the army; and that, for any thing he sees, it must unavoidably increase. Meat they have only for a short season; and as the whole dependence is on provisions now to be procured, without a shilling for the purpose, and without credit for a shilling, I look forward with the most pungent apprehensions. It will be attempted, I believe, to purchase a few supplies with loan-office certificates; but whether they will be received is perhaps far from being certain; and if received will certainly be a most expensive and

ruinous expedient. It is not without some reluctance I trust this information to a conveyance by post, but I know of no better at present, and I conceive it to be absolutely necessary to be known to those who are most able and zealous to contribute to the public relief.

TO THOMAS JEFFERSON.

Philadelphia, May 6, 1780.

DEAR SIR,

I am sorry that I can give you no other account of our public situation, than that it continues equally perplexed and alarming as when I lately gave you a sketch of it. Our army has as yet been kept from starving, and public measures from total stagnation, by draughts on the States for the unpaid requisitions. The great amount of these you may judge of from the share that has fallen to Virginia. The discharge of debts due from the purchasing departments has absorbed a great proportion of them, and very large demands still remain. As soon as the draughts amount to the whole of the monthly requisitions up to the end of March, they must cease, according to the new scheme of finance. We must then depend wholly on the emissions to be made in pursuance of that scheme, which can only be applied as the old emissions are collected and destroyed. Should this not be done as fast as the current expenditures require, or should the new emissions fall into a course of depreciation, both of which may but too justly be feared, a most melancholy crisis must take place. A punctual com-

pliance on the part of the States with the specific supplies will indeed render much less money necessary than would otherwise be wanted; but experience by no means affords satisfactory encouragement that due and unanimous exertions will be made for that purpose,—not to mention that our distress is so pressing that it is uncertain whether any exertions of that kind can give relief in time. It occurs besides, that as, the ability of the people to comply with the pecuniary requisitions is derived from the sale of their commodities, a requisition of the latter must make the former proportionably more difficult and defective. Congress have the satisfaction, however, to be informed that the legislature of Connecticut have taken the most vigorous steps for supplying their quota both of money and commodities; and that a body of their principal merchants have associated for supporting the credit of the new paper, for which purpose they have, in a public address, pledged their faith to the assembly to sell their merchandize on the same terms as if they were to be paid in specie. A similar vigor throughout the Union may perhaps produce effects as far exceeding our present hopes, as they have heretofore fallen short of our wishes.

It is to be observed that the situation of Congress has undergone a total change from what it originally was. Whilst they exercised the indefinite power of emitting money on the credit of their constituents, they had the whole wealth and resources of the continent within their command, and could go on with their affairs independently and as they pleased. Since the resolution passed for shutting the press,

this power has been entirely given up, and they are now as dependent on the States as the King of England is on the Parliament. They can neither enlist, pay nor feed a single soldier, nor execute any other purpose, but as the means are first put into their hands. Unless the legislatures are sufficiently attentive to this change of circumstances, and act in conformity to it, every thing must necessarily go wrong, or rather must come to a total stop. All that Congress can do in future will be to administer public affairs with prudence, vigor and economy. In order to do which they have sent a committee to Headquarters with ample powers, in concert with the Commander-in-Chief and the heads of the Departments, to reform the various abuses which prevail, and to make such arrangements as will best guard against a relapse into them.

TO THOMAS JEFFERSON.

Philadelphia, June 2, 1780.

DEAR SIR,

It appears from sundry accounts from the frontiers of New York and other Northern States, that the savages are making the most distressing incursions, under the direction of British agents, and that a considerable force is assembling at Montreal for the purpose of wresting from us Fort Schuyler, which covers the northwestern frontier of New York. It is probable the enemy will be but too successful this campaign in exciting their vindictive spirit against us, throughout the whole frontier of the United

States. The expedition of General Sullivan against the Six Nations, seems by its effects rather to have exasperated than to have terrified or disabled them. And the example of those nations will add great weight to the exhortations addressed to the more southern tribes.

Rivington has published a positive and particular account of the surrender of Charleston on the twelfth ultimo, said to be brought to New York by the Iris which left Charleston five days after. There are, notwithstanding, some circumstances attending it which, added to the notorious character for lying of the author, leave some hope that it is fictitious. The true state of the matter will probably be known at Richmond before this reaches you.

We have yet heard nothing further of the auxiliary armament from France. However anxiously its arrival may be wished for, it is much to be feared we shall continue to be so unprepared to co-operate with them, as to disappoint their views, and to add to our distress and disgrace. Scarce a week, and sometimes scarce a day, but brings us a most lamentable picture from Head-Quarters. The army are a great part of their time on short allowance, and sometimes without any at all, and constantly depending on the precarious fruits of momentary expedients. General Washington has found it of the utmost difficulty to repress the mutinous spirit engendered by hunger and want of pay: and all his endeavours could not prevent an actual eruption of it in two Connecticut regiments, who assembled on the parade with their arms, and resolved to return home or satisfy their hunger by the power of the bayonet. We have no

permanent resource, and scarce even a momentary one left, but in the prompt and vigorous supplies of the States. The State of Pennsylvania has it in her power to give great relief in the present crisis, and a recent act of her legislature shows, they are determined to make the most of it. I understand they have invested the Executive with a dictatorial authority from which nothing but the *lives* of their citizens are exempted. I hope the good resulting from it will be such as to compensate for the risk of the precedent.

TO THOMAS JEFFERSON.

Philadelphia, June 23, 1780.

DEAR SIR,

The fact is confirmed that Clinton has returned to New York with part of the Southern army, and has joined Kniphausen. They are at present manœuvring for purposes not absolutely known, but most probably in order to draw General Washington to an action, in which they suppose he might be disabled from giving the necessary co-operation to the French armament. Could they succeed in drawing him from his strong position, the result indeed ought to be exceedingly feared. He is weak in numbers beyond all suspicion, and under as great apprehension from famine as from the enemy. Unless very speedy and extensive reinforcements are received from the Eastern States, which I believe are exerting themselves, the issue of the campaign must be equally disgraceful to our councils and disgustful to our allies. Our

greatest hopes of being able to feed them are founded on a patriotic scheme of the opulent merchants of this city, who have already subscribed nearly £ , and will very soon complete that sum, the immediate object of which is to procure and transport to the army rations, and three hundred hogsheads of rum. Congress, for the support of this bank, and for the security and indemnification of the subscribers, have pledged the faith of the United States, and agreed to deposit bills of exchange in Europe to the amount of £150,000 sterling, which are not, however, to be made use of, unless other means of discharging this debt should be inadequate.

TO EDMUND PENDLETON.

Philadelphia, September 12, 1780.

DEAR SIR,

Congress have at length entered seriously on a plan for finally ratifying the Confederation. Convinced of the necessity of such a measure, to repress the hopes with which the probable issue of the campaign will inspire our enemy, as well as to give greater authority and vigor to our public councils, they have recommended, in the most pressing terms, to the States claiming unappropriated back lands, to cede a liberal portion of them for the general benefit. As these exclusive claims formed the only obstacle with Maryland, there is no doubt that a compliance with this recommendation will bring her into the Confederation. How far the States holding the back lands may be disposed to give them up, cannot be so

easily determined. From the sentiments of the most intelligent persons which have come to my knowledge, I own I am pretty sanguine that they will see the necessity of closing the Union, in too strong a light to oppose the only expedient that can accomplish it.

Another circumstance, that ought greatly to encourage us under disappointed expectations from the campaign, is the combination of the maritime powers in support of their neutral rights, and particularly the late insolent and provoking violation of those rights by the English ships at St. Martin's. It is not probable that the injured will be satisfied without reparations and acknowledgments which the pride of Britain will not submit to; and if she can once be embroiled in an altercation with so formidable a league, the result must necessarily be decisive in our favor. Indeed it is not to be supposed, after the amazing resources which have been seen in Great Britain, when not only deprived of, but opposed by, her ancient Colonies, and the success of the latter in resisting for so long a time the utmost exertion of these resources against her, that the maritime powers, who appear to be so jealous of their rights, will ever suffer an event to take place which must very soon expose them to be trampled on at the pleasure of Great Britain.

TO JOSEPH JONES.

Philadelphia, September 19, 1780.

DEAR SIR,

Yesterday was employed by Congress in discussing the resolutions you left with them. The first and

second were passed after undergoing sundry alterations. The clause in the second for allowing the expense of maintaining civil government within the ceded territory, was struck out by the committee, and an attempt to get it re-inserted in the House was negatived. It was surmised, that so indefinite an expression might subject Congress to very exorbitant claims. With respect to Virginia, I believe that expense has not been so considerable as to be much worth insisting on. The principal expenses may properly be included under the military head. The consideration of the last resolution, annulling Indian purchases, was postponed, with an intention, I believe, of not resuming it. It is supposed by some to be unnecessary; by others, to be improper, as implying that without such previous assurance Congress would have a right to recognize private claims in a territory expressly given up to them for the common benefit. These motives prevailed, I am persuaded, with more than the real view of gratifying private interest at the public expense. The States may annex what conditions they please to their cessions, and by that means guard them against misapplication; or if they only annul all pretended purchases by their own laws before the cessions are made, Congress are sufficiently precluded, by their general assurance that they shall be applied to the common benefit, from admitting any private claims which are opposed to it.

The Vermont business has been two days under agitation and nothing done in it, except rejecting a proposition for postponing the determination of Congress till Commissioners should enquire into the titles

and boundaries of New Hampshire and New York, Congress have bound themselves so strongly by their own act to bring it to an issue at this time, and are pressed by New York so closely with this engagement, that it is not possible any longer to try evasive expedients. For my own part, if a final decision must take place, I am clearly of opinion that it ought to be made on principles that will effectually discountenance the erection of new Governments without the sanction of proper authority, and in a style marking a due firmness and decision in Congress.

TO JOSEPH JONES.

Philadelphia, October 17, 1780.

DEAR SIR,

The post having failed to arrive this week, I am deprived of the pleasure of acknowledging a line from you.

Congress have at length been brought to a final consideration of the clause relating to Indian purchases, [by the land companies.] It was debated very fully and particularly, and was, in the result, lost by a division of the House. Under the first impression of the chagrin, I had determined to propose to my colleagues to state the whole matter to the Assembly, with all the circumstances and the reasonings of the opponents to the measure; but, on cooler reflection, I think it best to leave the fact in your hands, to be made use of as your prudence may suggest. I am the rather led to decline the first determination, because I am pretty confident, that,

whatever the views of particular members might be, it was neither the wish nor intention of many who voted with them, to favor the purchasing companies. Some thought such an assurance from Congress unnecessary, because their receiving the lands from the States as *vacant* and unappropriated, excluded all individual claims, and because they had given a general assurance that the cession should be applied to the common benefit. Others supposed that such an assurance might imply, that without it Congress would have a right to dispose of the lands in any manner they pleased, and that it might give umbrage to the States claiming an exclusive jurisdiction over them. All that now remains for the ceding States to do, is to annex to their cessions the express condition, that no private claims be complied with by Congress. Perhaps it would not be going too far, by Virginia, who is so deeply concerned, to make it a condition of the grant, that no such claim be admitted even within the grants of others, because, when they are given up to Congress, she is interested in them as much as others, and it might so happen, that the benefit of all other grants, except her own, might be transferred from the public to a few land-mongers. I cannot help adding, however, that I hope this incident in Congress will not discourage any measures of the Assembly, which would otherwise have been taken [for the object] of ratifying the Confederation. Under the cautions I have suggested, they may still be taken with perfect security.

Congress have promoted Col. Morgan to the rank of a Brigadier, on the representations in favor of him from Governors Rutledge, and Jefferson, and General

Gates. The latter is directed to be made a subject of a Court of Inquiry, and General Washington is to send a successor into the Southern department. The new arrangement of the army, sent to the General for his revision, has brought from him many judicious and valuable observations on the subject, which, with the arrangement, are in the hands of a committee.³

TO JOSEPH JONES.

Philadelphia, October, 1780.

DEAR SIR,

I wish it was in my power to enable you to satisfy the uneasiness of people with respect to the disappointment in foreign succours. I am sensible of the advantage which our secret enemies take of it. I am persuaded also that those who ought to be acquainted with the cause are sensible of it; and as they give no intimations on the subject, it is to be inferred that they are unable to give any that would prevent the mischief. It is so delicate a subject, that, with so little probability of succeeding, it would perhaps be hardly prudent to suggest it. As soon as any solution comes out you shall be furnished with it.

We continue to receive periodical alarms from the commissary's and quarter-master's departments. The season is now arrived when provision ought to be made for a season that will not admit of transportation; and when the monthly supplies must be subject to infinite disappointments, even if the States were to do their duty. But instead of magazines being

laid in, our army is living from hand to mouth, with a prospect of being soon in a condition still worse. How a total dissolution of it can be prevented in the course of the winter is, for any resources now in prospect, utterly inexplicable, unless the States unanimously make a vigorous and speedy effort to form magazines for the purpose. But unless the States take other methods to procure their specific supplies than have prevailed in most of them, the utmost efforts to comply with the requisitions of Congress can be only a temporary relief. This expedient, as I take it, was meant to prevent the emission of money. Our own experience, as well as the example of other countries, made it evident that we could not by taxes draw back to the treasury the emissions as fast as they were necessarily drawn out. We could not follow the example of other countries by borrowing, neither our own citizens nor foreigners being willing to lend as far as our wants extended. To continue to emit *ad infinitum*, was thought more dangerous than an absolute occlusion of the press. Under these circumstances, the expedient of specific requisitions was adopted for supplying the necessities of the war. But it is clear the success of this expedient depends on the mode of carrying it into execution. If, instead of executing it by specific taxes, State emissions or commissary's and quartermaster's certificates, which are a worse species of emissions, are recurred to, what was intended for our relief will only hasten our destruction.

As you are at present a *legislator*, I will take the liberty of hinting to you an idea that has occurred on this subject. I take it for granted that taxation

alone is inadequate to our situation. You know as well as I do, how far we ought to rely on loans to supply the defect of it. Specific taxes, as far as they go, are a valuable fund, but from local and other difficulties will never be universally and sufficiently adopted: purchases with State money or certificates will be substituted. In order to prevent this evil, and to ensure the supplies, therefore, I would propose, that they be diffused and proportioned among the people as accurately as circumstances will admit; that they be *impressed* with vigor and impartiality; and paid for in certificates not transferable, and to be redeemable, at some period subsequent to the war, at specie value, and bearing an intermediate interest. The advantage of such a scheme is this, that it would anticipate during the war the future revenues of peace, as our enemies and all other modern nations do. It would be compelling the people to *lend* the public their commodities, as people elsewhere lend their money to purchase commodities. It would be a permanent resource by which the war might be supported as long as the earth should yield its increase. This plan differs from specific taxes in this, that as an equivalent is given for what is received, much less nicety would be requisite in apportioning the supplies among the people, and they would be taken in places where they are most wanted. It differs from the plan of paying for supplies in State emissions or common certificates, in this, that the latter produce all the evils of a redundant medium, whereas the former, not being transferable, cannot have that effect, and moreover do not require the same degree of taxes during the war.

TO EDMUND PENDLETON.

Philadelphia, October 31, 1780.

DEAR SIR,

Congress have felt a becoming resentment of the barbarous treatment of the gentlemen in captivity at Charleston, and have directed General Washington to require of Clinton an explanation of the matter. Nothing has yet been done in consequence of it, except an application to Clinton, which, as he had at that time not been officially informed of the fact, he evaded by general assurances of the humanity, &c., of Cornwallis. General Washington had very luckily, between the application and the answer, received two of the Earl's bloody proclamations, which he very handsomely communicated to Sir Henry.⁴

TO EDMUND PENDLETON.

Philadelphia, November 7, 1780.

DEAR SIR,

Doctor Lee and Mr. Izard, particularly the latter, have been here sometime, and I believe are not very reserved in their reflections on the venerable philosopher at the Court of Versailles. Mr. Izard, I understand, is particularly open in his charges against him. Doctor Lee on his arrival applied to Congress for a hearing on the subject of Mr. Dean's allegations, if any doubt remained of the falsehood and malice of them, but nothing final has been done as yet in consequence of it.⁵ I have had great anxiety lest the flame of faction, which on a former occasion proved so injurious, should be kindled anew; but, as far as I

can judge, the temper of Congress is in general by no means prone to it, although there may be individuals on both sides who would both wish and endeavour it.

Congress have just finished an estimate of supplies for the ensuing year, requiring of the States the value of six millions of dollars in specie. The principal part of the requisition consists of specific articles, the residue of specie or the new emissions, receivable as specie. If the States fulfil this plan punctually, there is no doubt that we shall go smoothly through another campaign; and if they would forbear recurring to State emissions and certificates, in procuring the supplies, it may become a permanent and effectual mode of carrying on the war. But past experience will not permit our expectations to be very sanguine. The collection and transportation of specific supplies must necessarily be tedious and subject to casualties; and the proceedings of separate popular bodies must add greatly to the uncertainty and delay. The expense attending the mode is of itself a sufficient objection to it, if money could by any possible device be provided in due quantity. The want of this article is the source of all our public difficulties and misfortunes. One or two millions of guineas properly applied, would diffuse vigor and satisfaction throughout the whole military departments, and would expel the enemy from every part of the United States. It would also have another good effect. It would reconcile the army and every body else to our republican forms of government; the principal inconveniences which are imputed to them being really the fruit of defective revenues. What other States effect

by money, we are obliged to pursue by dilatory and indigested expedients, which benumb all our operations, and expose our troops to numberless distresses. If these were well paid, well fed, and well clothed, they would be well satisfied, and would fight with more success. And this might and would be as well effected by our governments as by any other, if they possessed money enough, as in our moneyless situation the same embarrassments would have been experienced by any government.

TO JOSEPH JONES.

Philadelphia, November 1780.

DEAR SIR,

Many attempts have been made to bring the Vermont dispute to an issue, but the diversity of opinions that prevail on one side, and the dilatory artifices employed on the other, have frustrated them. All the evidence has been heard, and the proposition for including it within the jurisdiction of some one of the States, debated for some time, but the decision was suspended.⁶ An arrangement of the army founded on General Washington's letter has passed Congress, and is now with the General for his observations on it. It includes a recommendation to the States to fill up their quotas. No arrangement of the civil departments has taken place. A new medical system has been passed. Shippen is again at the head of it. Craig and Cochran have not been forgotten. The instructions relating to the Mississippi have passed entirely to my satisfaction. A committee is now preparing a statement of the reasons and principles on which they stand.⁷

TO JOSEPH JONES.

Philadelphia, November 14, 1780.

DEAR SIR,

I do not learn that any of the States are particularly attentive to prevent the evils arising from certificates and emissions from their own treasury, although they are unquestionably the bane of every salutary arrangement of the public finances. When the estimate for the ensuing year was on the anvil in Congress, I proposed a recommendation to the States to discontinue the use of them, and particularly in providing the specific articles required. It met, however, with so cool a reception, that I did not much urge it. The objection against it was, that the practice was manifestly repugnant to the spirit of the acts of Congress respecting finance; and if these were disregarded, no effect could be expected from any additional recommendations. The letters from General Washington and the Commissary General, for some time past, give a most alarming picture of the state and prospects of the magazines. Applications to the contiguous States on the subject, have been repeated from every quarter, till they seem to have lost all their force. Whether any degree of danger and necessity will rouse them to provide for the winter season now hastening upon us, I am unwilling to decide, because my fears dictate the worst. The inroads of the enemy on the frontier of New York have been most fatal to us in this respect. They have almost totally ruined that fine wheat country, which was able, and from the energy of

their Government, was most likely, to supply magazines of flour, both to the main army and to the northwestern posts. The settlement of Schoharie, which alone was able to furnish, according to a letter from General Washington, eighty thousand bushels of grain for the public use, has been totally laid in ashes.

I make no apology for inaccuracies and bad writing, because you know the manner in which we are obliged to write for the post, and having been prevented by company from doing any thing last night, I am particularly hurried this morning.

TO JOSEPH JONES.

Philadelphia, November 21, 1780.

DEAR SIR,

I am glad to find you have at last got a House of Delegates, and have made so auspicious a beginning, as an unanimous vote to fill up our line for the war. This is a measure which all the States ought to have begun with. I wish there may not be some that will not be prevailed on even to end with it. It is much to be regretted that you are not in a condition to discontinue another practice equally destructive with temporary enlistments. Unless an end can by some means or other be put to State emissions and certificates, they must prove the bane of every salutary regulation. The depreciation in this place has lately run up as high as one hundred for one, and it cannot be satisfactorily accounted for, on any other principle than the substitution of certificates in the payment of those taxes which were intended to

reduce its quantity and keep up a demand for it. The immediate cause of this event is said to have been the sudden conversion of a large quantity of paper into specie, by some tories lately ordered into exile by this State. It is at present on the fall, and I am told the merchants have associated to bring it down and fix it at 75. The fate of the new money is as yet suspended. There is but too much reason, however, to fear that it will follow the fate of the old. According to the arrangement now in force, it would seem impossible for it to rise above one for forty. The resolutions of Congress which establish that relation between the two kinds of paper, must destroy the equality of the new with specie, unless the old can be kept down at forty for one. In New Jersey, I am told, the Legislature has lately empowered the Executive to regulate the exchange between the two papers, according to the exchange between the old and the new, in order to preserve the equality of the latter with specie. The issue of this experiment is of consequence, and may throw light perhaps on our paper finance. The only infallible remedy, whilst we cannot command specie, for the pecuniary embarrassments we labor under, will, after all, be found to be a punctual collection of the taxes required by Congress.

I hope you will not forget to call the attention of the Assembly, as early as the preparations for defence will admit, to the means of ratifying the Confederation, [by a cession of territory,] nor to remind it of the conditions which prudence requires should be annexed to any territorial cession that may be agreed on. I do not believe there is any serious de-

sign in Congress to gratify the avidity of land mongers, but the best security for their virtue, in this respect, will be to keep it out of their power. They have been much infested, since you left us, with memorials from these people; who appear to be equally alarmed and perplexed. Mr. G. Morgan, as agent for the Indiana claimants, after memorializing Congress on the subject, has honored the Virginia delegates with a separate attention. He very modestly proposes to them a reference of the controversy between the company and Virginia to arbitration, in the mode pointed out in the Confederation for adjusting disputes between State and State. We have given him for answer, that as the State we represent had finally determined the question, we could not, with any propriety, attend to his proposition; observing at the same time, that if we were less precluded, we could not reconcile with the sovereignty and honor of the State an appeal from its own jurisdiction to a foreign tribunal, in a controversy with private individuals.

TO JOSEPH JONES.

Philadelphia, November 25, 1780.

DEAR SIR,

I informed you some time ago that the instructions to Mr. Jay had passed Congress [on the fourth of October,] in a form which was entirely to my mind. I since informed you that a committee was preparing a letter to him explanatory of the principles and objects of the instructions. This letter also passed

[on the seventeenth,] in a form equally satisfactory. I did not suppose that any thing further would be done on the subject, at least till further intelligence should arrive from Mr. Jay. It now appears that I was mistaken. The Delegates from Georgia and South Carolina, apprehensive that a *uti possidetis* may be obtruded on the belligerent powers by the armed neutrality in Europe, and hoping that the accession of Spain to the alliance will give greater concert and success to the military operations that may be pursued for the recovery of their States, and likewise add weight to the means that may be used for obviating a *uti possidetis*, have moved* for a reconsideration of the instructions in order to empower Mr. Jay, in case of necessity, to yield to the claims of Spain in consideration of her guaranteeing our independence, and affording us a handsome subsidy. The expediency of such a motion is further urged, from the dangerous negotiations now on foot, by British emissaries, for detaching Spain from the war. Wednesday last was assigned for the consideration of this motion, and it has continued the order of the day ever since, without being taken up. What the fate of it will be I do not predict; but, whatever its own fate may be, it must do mischief in its operation. It will not probably be concealed that such a motion has been made and supported, and the weight which our demands would derive from unanimity and decision must be lost. I flatter myself, however, that Congress will see the impropriety of sacrificing the acknowledged limits and

* See in the Appendix a full explanation of this subject in a letter from Mr. M. to Hezekiah Niles, of January 8, 1822.

claims of any State, without the express concurrence of such State. Obstacles enough will be thrown in the way of peace, if it is to be bid for at the expense of particular members of the Union. The Eastern States must, on the first suggestion, take the alarm for their fisheries. If they will not support other States in their rights, they cannot expect to be supported themselves when theirs come into question.

In this important business, which so deeply affects the claims and interests of Virginia, and which I know she has so much at heart, I have not the satisfaction to harmonize in sentiment with my colleague. He has embraced an opinion that we have no just claim to the subject in controversy between us and Spain, and that it is the interest of Virginia not to adhere to it. Under this impression, he drew up a letter to the Executive, to be communicated to the Legislature, stating in general the difficulty Congress might be under, and calling their attention to a revision of their instructions to their delegates on the subject. I was obliged to object to such a step, and, in order to prevent it, observed that the instructions were given by the Legislature of Virginia on mature consideration of the case, and on a supposition that Spain would make the demands she has done; that no other event has occurred to change the mind of our constituents, but the armed neutrality in Europe, and the successes of the enemy to the southward, which are as well known to them as to ourselves; that we might every moment expect a third delegate here, who would either adjust or decide the difference in opinion between us, and that whatever went from the Delegation would then go in its proper form

and have its proper effect; that if the instructions from Virginia were to be revised, and their ultimatum reduced, it could not be concealed in so populous an Assembly, and that every thing which our minister should be authorized to yield, would be insisted on; that Mr. Jay's last despatches encouraged us to expect that Spain would not be inflexible if we were so, that we might every day expect to have more satisfactory information from him; that finally if it should be thought expedient to listen to the pretensions of Spain, it would be best, before we took any decisive step in the matter, to take the counsel of those who best know the interests, and have the greatest influence in the opinions, of our constituents; that as you were both a member of Congress and of the Legislature, and were now with the latter, you would be an unexceptionable medium for effecting this, and that I would write to you for the purpose by the first safe conveyance.

These objections had not the weight with my colleague which they had with me. He adhered to his first determination, and has, I believe, sent the letter above-mentioned by Mr. Walker, who will, I suppose, soon forward it to the Governor. You will readily conceive the embarrassments this affair must have cost me. All that I have to ask of you is, that if my refusing to concur with my colleague in recommending to the Legislature a revision of their instructions should be misconstrued by any, you will be so good as to place it in its true light; and if you agree with me as to the danger of giving express power to concede, or the inexpediency of conceding, that you will consult with gentlemen of the above description, and acquaint me with the result.

I need not observe to you that the alarms with respect to the inflexibility of Spain in her demands, the progress of British intrigues at Madrid, and the danger of the *uti possidetis*, may with no small probability be regarded as artifices for securing her objects on the Mississippi. Mr. Adams, in a late letter from Amsterdam, a copy of which has been enclosed to the Governor, supposes that the pretended success of the British emissaries at Madrid is nothing but a ministerial finesse to facilitate the loans and keep up the spirits of the people.^s

This will be conveyed by Col. Grayson, who has promised to deliver it himself; or, if any thing unforeseen should prevent his going to Richmond, to put it into such hands as will equally ensure its safe delivery.

TO JOSEPH JONES.

Philadelphia, November 28, 1780.

DEAR SIR,

Yours of the eighteenth came yesterday. I am glad to find the Legislature persist in their resolution to recruit their line of the army for the war; though without deciding on the expediency of the mode under their consideration, would it not be as well to liberate and make soldiers at once of the blacks themselves, as to make them instruments for enlisting white soldiers? It would certainly be more consonant to the principles of liberty, which ought never to be lost sight of in a contest for liberty; and with white officers and a majority of white soldiers,

no imaginable danger could be feared from themselves, as there certainly could be none from the effect of the example on those who should remain in bondage; experience having shewn that a freedman immediately loses all attachment and sympathy with his former fellow-slaves.

We have enclosed to the Governor a copy of an act of the Legislature of Connecticut, ceding some of their territorial claims to the United States, which he will doubtless communicate to the Assembly. They reserve the jurisdiction to themselves, and clog the cession with some other conditions which greatly depreciate it, and are the more extraordinary as their title to the land is so controvertible a one.

The association of the merchants for fixing the depreciation seems likely to prove a salutary measure; it reduced it from 90 and 100 to 75 at once, which is its present current rate; although it is observed that many of the retailers elude the force of it by raising the price in hard money.

TO JOSEPH JONES.

Philadelphia, December 5, 1780.

DEAR SIR,

I had yours of the twenty-fifth ultimo, by yesterday's post. I congratulate you on the deliverance of our country from the distresses of actual invasion. If any unusual forbearance has been shown by the British commanders, it has proceeded rather I presume, from a possibility that they may some time or other in the course of the war repossess what they

have now abandoned, than from a real disposition to spare. The proceedings of the enemy to the southward prove that no general change of system has taken place in their military policy.

We had letters yesterday from Mr. Jay and Mr. Carmichael as late as the fourth and ninth of September. Mr. Jay informs us that it is absolutely necessary to cease drawing bills on him; that 150,000 dollars, to be repaid in three years, with some aid in clothing, &c., is all that the Court will advance for us. The general tenor of the letters is, that our affairs there make little progress, that the court is rather backward, that the navigation of the Mississippi is likely to prove a very serious difficulty; that Spain has herself been endeavouring to borrow a large sum in France on which she meant to issue a paper currency, that the terms and means used by her displeased Mr. Neckar, who in consequence threw such discouragements on it, as in turn were not very pleasing to the Spanish Minister; that Mr. Cumberland is still at Madrid laboring in concert with other secret emissaries of Britain to give unfavorable impressions of our affairs, that he is permitted to keep up a correspondence by his couriers with London, that if negotiations for peace should be instituted this winter, as Spain has not yet taken a decided part with regard to America, England will probably choose to make Madrid rather than Versailles the seat of it. However unfavorable many of these particulars may appear, it is the concurrent representation of the above ministers that our disappointment of pecuniary succour at Madrid is to be imputed to the want of ability and not of inclination to supply

us, that the steadiness of His Catholic Majesty is entirely confided in by the French Ambassador, and that the mysterious conduct of Mr. Cumberland and of the Court of Spain towards him, seems to excite no uneasiness in the Ambassador. The letters add, that, on the pressing remonstrances of France and Spain, Portugal had agreed to shut her ports against English prizes, but that she persisted in her refusal to accede to the armed neutrality.

The receipt of the foregoing intelligence has awakened the attention of the Georgia delegates to their motion, of which I informed you particularly by Col. Grayson. It has lain, ever since it was made, undisturbed on the table. This morning is assigned for the consideration of it, and I expect it will without fail be taken up. I do not believe Congress will adopt it without the express concurrence of all the States immediately interested. Both my principles and my instructions will determine me to oppose it. Virginia, and the United States in general, are too deeply interested in the subject of controversy to give it up, as long as there is a possibility of retaining it. And I have ever considered the mysterious and reserved behaviour of Spain, particularly her backwardness in the article of money, as intended to alarm us into concessions, rather than as the effect of a real indifference to our fate or to any alliance with us. I am very anxious, notwithstanding, to have an answer to my letter by Grayson.

TO JOSEPH JONES.

Philadelphia, December 12, 1780.

DEAR SIR,

Agreeably to your favor of the second instant, which came to hand yesterday, I shall send this to Fredericksburg. I am sorry that either your own health or that of your lady should oblige you to leave the Legislature before the principal business of the session is finished. I shall be more sorry, if either of these causes should disappoint my hopes of your return to Philadelphia at the promised time. I am the more anxious for your return, because I suppose it will supersede the proposed measure of sending an Envoy to Congress on the business you mention. If the facts are transmitted by the Speaker of the Assembly or the Executive, may they not be laid before Congress with as much efficacy by the established Representatives of the State as by a special messenger? And will not the latter mode in some measure imply a distrust in the former one, and lower us in the eyes of Congress and the public? The application to the Court of France has been anticipated. Congress have even gone so far as to appoint an Envoy Extraordinary to solicit the necessary aids. Colonel Laurens was invested yesterday with that office. I leave the measure to your own reflection. How far it may be expedient to urge Spain to assist us, before she is convinced of the reasonableness of our pretensions, ought to be well weighed before it be tried. The liberty we took in drawing on her for money, excited no small astonishment, and probably gave an idea of our distress,

which confirmed her hopes of concession on our part. Accounts received since my last, repeat her inflexibility with regard to the object * in question between us. It is indispensable that we should in some way or other know the *ultimate* sense of our constituents on this important matter.

Mr. Laurens is certainly in captivity. An Irish paper tells us he was committed to the Tower on the sixth of October, under a warrant from the three Secretaries of State. Portugal has acceded to the neutral league so far as to exclude the English from the privileges her armed vessels have hitherto enjoyed in her ports. The Ariel, with Paul Jones, and the clothing &c., on board, was dismasted a day or two after she sailed, and obliged to put back into port. If General Washington detaches no further aid to the southward, it will be owing to the reduction of his force by the expiration of enlistments. The Pennsylvania line is mostly engaged for the war, and will soon form almost the whole of the army under his immediate command.

Mr. Sartine, it seems, has been lately removed from the administration of the Naval Department, in consequence of his disappointing the general hopes formed from the great means put into his hands. When it was mentioned to me by Mr. Marbois, I took occasion to ask whether the deception with regard to the second division ought to be ultimately charged upon him, observing to him the use the enemies of the alliance had made of that circumstance. From the explanation that was given, I believe, the blame rests upon his head, and that his removal was

* Mississippi.

the effect of it in a great measure; though it is possible, he may, like many others, have been sacrificed to ideas of policy, and particularly in order to cancel the unfavorable impression which the disappointment left on America. A high character is given, as might be expected, of his successor, the Marquis de Castries, particularly with respect to those qualities in which Mr. Sartine is charged with having been most deficient.

TO THOMAS JEFFERSON.

Philadelphia, December 13th, 1780.

SIR,

The complexion of the intelligence received of late from Spain, with the manner of thinking which begins to prevail in Congress, with regard to the claims to the navigation of the Mississippi, makes it our duty to apply to our constituents for their precise, full, and ultimate sense on this point.

If Spain should make a relinquishment of the navigation of that river, on the part of the United States, an indispensable condition of an alliance with them, and the State of Virginia should adhere to their former determination to insist on the right of navigation, their Delegates ought to be so instructed, not only for their own satisfaction, but that they may the more effectually obviate arguments drawn from a supposition that the change of circumstances, which has taken place since the former instructions were given, may have changed the opinion of Virginia with regard to the object of them. If, on the other side,

any such change of opinion should have happened, and it is now the sense of the State, that an alliance with Spain ought to be purchased, even at the price of such a cession, if it cannot be obtained on better terms, it is evidently necessary that we should be authorized to concur in it. It will also be expedient for the Legislature to instruct us in the most explicit terms, whether any, and what, extent of territory, on the east side of the Mississippi, and within the limits of Virginia, is, in any event, to be yielded to Spain as the price of an alliance with her. Lastly, it is our earnest wish to know what steps it is the pleasure of our constituents we should take, in case we should be instructed in no event to concede the claims of Virginia, either to territory or to the navigation of the above-mentioned river, and Congress should, without their concurrence, agree to such concession.

We have made use of the return of the Honorable Mr. Jones to North Carolina, to transmit this to your Excellency, and we request that you will immediately communicate it to the General Assembly.

We have the honor to be, with the most perfect respect and esteem, your Excellency's most obedient and humble servants.

JAMES MADISON, JUNIOR,
THEODORICK BLAND.

TO JOSEPH JONES.

Philadelphia, December 19th, 1780.

DEAR SIR,

Yours of the eighth instant came to hand yesterday. I was sorry to find the Assembly had not then taken up the recommendation of Congress on the subject of the western lands. Its being postponed so late will, I fear, prevent the result of their deliberations from being communicated to Maryland before the rising of their Legislature; in which case much time must be lost, unless their Delegates be authorized to accede to the Confederation, on a cession satisfactory to themselves,—a liberality of proceeding hardly to be expected from that State, after the jealousy and reserve it has shown. I am no less sorry to find so little progress made in the plan for levying soldiers. The regular force for the southern department must be principally, it seems, contributed by Virginia, the North Carolina Assembly having broken up without making any effectual provision of that sort. One would have supposed that the fatiguing service exacted of the militia in that State, would have greatly facilitated such a measure, and yet that is assigned as the obstacle to its practicability.

I wish anxiously to hear from you on the subject stated in my letter by Grayson, and in my subsequent one by the post. Circumstances which I do not choose unnecessarily to hazard by the post, have made it expedient to lay the matter before the Assembly, that their former instructions may not be invalidated by a supposed effect of a change of situa-

tion, or may be rescinded if real. This went by W. Jones, Esquire, on his return to North Carolina, who, I suppose, will not be at Richmond till nearly Christmas. I wish it could have reached the Assembly before your leaving it.

TO EDMUND PENDLETON.

Philadelphia, January 9th, 1781.

DEAR SIR,

I have again the pleasure to begin with acknowledging the receipt of a favor from you, that of the first having come to hand yesterday.

On Thursday last, Congress were informed by General Potts and Colonel Johnston, who came expresses for the purpose, that a general mutiny had broken out on the morning of the New Year's day, in the Pennsylvania line, which was cantoned near Morristown, apart from the rest of the army. Every effort was made by the officers to stifle it in its infancy, but without effect. Several of them fell victims to the fury of the mutineers. The next information came from General Wayne, who wrote from Princeton, whither the troops had marched in regular order on their way to Philadelphia, as they gave out, with a determination not to lay down their arms, nor to return to their obedience till a redress of grievances should be obtained. They suffered none of their officers to be among them except General Wayne and Colonels Steuart and Butler, and these they kept under close guard, but in every other respect treated with the utmost decorum. The grievances com-

plained of were principally, the detention of many in service beyond the term of enlistment, and the sufferings of all from a deficient supply of clothing and subsistence, and the long arrearage of pay. Several propositions and replies, on the subject of redress, passed between a deputation of sergeants, in behalf of the troops, and General Wayne, but without any certain tendency to a favorable issue. The affair at length began to take a very serious countenance, and as a great proportion of that line are foreigners, and not a few deserters from the British army, and as they showed a disposition to continue at Princeton, from whence a refuge with the enemy, who, it was said, were coming out in force for the purpose, was at any moment practicable, it was thought necessary, notwithstanding the humiliation of the step, to depute a committee of Congress with powers to employ every expedient for putting a speedy end to the discontents. The President of the State, with a number of gentlemen from this place, went up to interpose their influence. By a letter from the committee, who had proceeded as far as Trenton, received the evening before last, it appears that the President, who was ahead, and had written to General Wayne, was likely to have a confidential reception. The committee write, that an emissary of Clinton, who had appeared among the soldiers with a paper setting forth the folly and danger of adhering to a cause which had already brought so much misery upon them, promising a protection under the British Government, a body of troops to cover their escape, and the payment of all arrears due from Congress, was seized and given up to General Wayne, who handed him

with his guide over to the President of this State; who placed them under the custody of his light-horse. This circumstance not only presages a fortunate issue to the mutiny, but is such a proof of attachment to the country in the most trying situation, as must effectually repress the joy and encouragement which the enemy had taken from this threatening event. The late detachment from New York, which a letter from Fredericksburg says is in the Chesapeake, is about one thousand six hundred strong, and commanded by Arnold.

TO EDMUND PENDLETON.

Philadelphia, January 16, 1781.

DEAR SIR,

I was very glad at not being disappointed in my expectation of a favor from you by yesterday's post. Several reports, in quick succession, of the arrival and progress of the predatory band under Arnold, had rendered us exceedingly anxious to hear the truth and particulars of the matter. Some letters, by the post, tell us that the Governor and Baron Steuben were wholly engaged in removing and securing the arms and ammunition. If so, he was better employed than in writing to Congress on the subject, which, from his usual punctuality, was expected. The enterprise against Richmond, at this season, was certainly an audacious one, and strongly marks the character which directed it. Having been long sensible that the security of the country, as high up as tide-water reaches, has been owing more to the

ignorance and caution of the enemy than to its own strength or inaccessibleness, I was much less astonished at the news than many others. To those who are strangers to the sparse manner in which that country is settled, and the easy penetration afforded by its long, navigable rivers, the rapid and unopposed advances of the enemy appear unaccountable, and our national character suffers imputations which are by no means due to it.

Congress have yet received no official report of the result of the conciliatory measures taken with the revolted soldiers at Trenton. From oral and circumstantial evidence, there is no doubt that they have been successful. A discharge of a part from the service, and a supply of clothing and money to the rest, is the price of their submission. This much, considered in itself, was required by justice, and is, consequently, consistent with dignity. But, considered with respect to the circumstances attending the negotiation, there is but too much ground to suspect that it will be attributed to our fears, and is, therefore, not a little mortifying. Happily, the example, as we understand by a letter from General Washington received yesterday, had not infected the other parts of the army. As the same causes, however, which engendered this malignant humour in the Pennsylvania line, are known to exist in the other lines, we cannot be sure that the same effects will not yet take place in the latter, unless they be speedily removed. As one step towards it, Congress are endeavouring to profit by the alarm which this event must have excited in the States, by calling upon them for the means of immediately furnishing some pay to the troops of their respective lines.

You ask me what I think of the Delegate Extraordinary to Congress? I wish you had told me what you think of such an appointment. It is pretty certain, I believe, that people in general will not consider it as a proof of confidence in the ordinary delegation. As Mr. Jones, who, I believe, possesses the confidence of his country, and, I am sure, will have as much weight in Congress as any man that will be sent on such an occasion, will come about the same time, and, having attended the Legislature, will be as well informed in every point of view, I cannot deny that the appointment appears to me to be, at least, a supernumerary one. I wish the good effects of it may show that I am mistaken.

The trade of this city has just suffered a very severe blow. No less than seven fine vessels have been taken out of an outward bound fleet, and carried into New York.

The emissary from Clinton, and his guide, were executed on Saturday morning last.

COPY OF A PAPER IN THE HAND WRITING OF JOSEPH JONES,
AMONG THE LETTERS TO HIM FROM MR. MADISON.

The paper is endorsed "Copy of a letter to Pendleton, Wythe, Jefferson," but it does not appear by whom the letter was written. It is without date; but must have been drawn up just after the accession of Maryland to the Articles of Confederation.⁹*

DEAR SIR,

Maryland having subscribed the Articles of Con-

* "Probably, General Washington" is noted on the paper in the hand writing of Mr. Madison.—Editor.

federation, the alliance of the States is now complete, and, in future, Congress are to be governed by those rules. If the powers granted to the representative body of the States by these articles, are inadequate to the purposes of carrying on a vigorous war,—and of this all the States, from experience, are able to judge—would it not be wise, while common danger presses us together, and the States see and feel the necessity of enlarging the powers of Congress, for the purposes of war, that the defects of the articles, in this respect, be timely considered and remedied? Danger may spring from delay; good will result from a timely application of a remedy. The present temper of the States is friendly to the establishment of a lasting union—the moment should be improved; if suffered to pass away it may never return; and, after gloriously and successfully contending against the usurpations of Britain, we may fall a prey to our own follies and disputes. I am aware of the danger of granting great powers, and of the reluctance of the States to yield them, and attribute the present disposition to give Congress more competent powers, to a conviction, from experience, that it is for the common good to do so. In the course of business, the defects of the Confederation will, no doubt, appear, and Congress will point them out to the States, and propose the necessary alterations for their concurrence. One, and of the first importance, hath already become a question, that is, the power of compelling the States to comply with the requisitions for men and money, agreeably to their respective quotas. The States appear to have yielded to Congress the right of ascertaining the sum neces-

sary for the public expense, and oblige themselves to furnish their proportions agreeably to the mode prescribed; they also yield the right of fixing the quotas of men for the common defence, which shall be binding; but no mode is stated how a disobedient or delinquent State is to be compelled to furnish the one or the other, and for want of this controlling power in Congress over the States, when refractory, war cannot be prosecuted with vigor, and the safety of the whole is endangered, besides the hardship and injustice to those that comply, and the prolongation of the war by such delinquencies. If, in surrendering the right of fixing the proportions, the power of compelling obedience is implied, how, or by what mode, ought the refractory to be punished; by shutting the ports—by marching an armed force into the State—by deprivation of privileges, or in what other mode? These are nice and delicate questions, but are necessarily involved in the inquiry, and I mention them with freedom, in hopes you will as freely give me your sentiments upon them. I feel myself more particularly impelled to do this, not only from you, but a few others, of my acquaintance, of whose abilities and judgments I wish to avail myself upon this and similar occasions, because, by a resolution of our Legislature of the twenty-fourth of December, 1779, the point of enforcing obedience to requisitions seems to have been agitated and censured. It would give me concern should it be thought of me that I am desirous of enlarging the powers of Congress unnecessarily, as I declare to God, my only aim is the general good, and which, in time of war, does appear to me to be involved in the exer-

cise of this, or some controlling power adequate to drawing out, in due proportion, the abilities and resources of the States, without which power in Congress, and a more punctual compliance on the part of the States than has been manifested for some time past, the war cannot be prosecuted to advantage; and while some States, exposed to danger, strain every nerve, others, removed from danger and at ease, are remiss and negligent; whereas all should make the proper exertions, and furnish their proportions, whether immediately or remotely affected, and which can alone give energy to military operations. Perhaps a knowledge that this power was lodged in Congress, might be the means to prevent its ever being exercised, and the more readily induce obedience; indeed, if Congress was unquestionably possessed of the power, nothing should induce the display of it but obstinate disobedience, and the urgency of the general welfare.

TO THOMAS JEFFERSON.

Philadelphia, April 3rd, 1781.

DEAR SIR,

The letter from the Delegation, by the last post, informed you of the arrival of the stores here, which were to have been delivered in Virginia by one of the French ships. The infinite importance of them to the State, especially since the arrival of a reinforcement to Arnold, of which we are just apprized by the Marquis, has determined the Delegates to forward them by land, without loss of time. This

will be attempted, in the first instance, in the channel of the Quartermaster's department, and, if it cannot be effected in that mode, without delay, we propose to engage private wagons for the purpose, on the credit of the State. Should the latter alternative be embraced, I find it will be necessary to stipulate instantaneous payment, from the Treasury, on the arrival of the wagons at Richmond, in specie or *old continental currency* to the *real* amount thereof. I mention this circumstance that you may be prepared for it. The expense of the transportation will be between five and six hundred pounds, Virginia money. The exchange between specie and the old paper, at present, is about one hundred and thirty-five for one.

The Delegates having understood that the refugees taken by Captain Tilley, on his return to Newport from the Chesapeake, consisted chiefly of persons who formerly lived in Virginia, some of whom were traitors who deserved exemplary punishment, and others vindictive enemies to the State, thought proper to make the inclosed application to the French Minister. By conversation I have since had with him on the subject, I doubt whether it will be deemed consistent with their general rules of conduct, to give up, to be punished as malefactors, any of the captives made by their fleet, which does not serve, like their land army, as an auxiliary to the forces of the United States. If these persons had been taken by their land forces, which serve as auxiliaries under the Commander-in-Chief, it seems there would have been no difficulty in the case. However, the application will certainly prevent the exchange or release

to which it refers, if the Executive think it expedient to do so. On the least intimation, I am persuaded the apostates would be even sent over to France, and secured in the most effectual manner during the war. Perhaps this would not be amiss, as being not our prisoners, no use can be made of them in redeeming our citizens from captivity.

TO THOMAS JEFFERSON.

Philadelphia, April 16, 1781.

DEAR SIR,

The inclosed paper is a copy of a report, from a committee, now lying on the table of Congress for consideration. The delicacy and importance of the subject makes me wish for your judgment on it, before it undergoes the final decision of Congress.

The necessity of arming Congress with coercive powers arises from the shameful deficiency of some of the States which are most capable of yielding their apportioned supplies, and the military exactions to which others, already exhausted by the enemy and our own troops, are in consequence exposed. Without such powers, too, in the General Government, the whole confederacy may be insulted, and the most salutary measures frustrated, by the most inconsiderable State in the Union. At a time when all the other States were submitting to the loss and inconvenience of an embargo on their exports, Delaware absolutely declined coming into the measure, and not only defeated the general object of it, but enriched herself at the expense of those who did their duty.

The expediency, however, of making the proposed application to the States, will depend on the probability of their complying with it. If they should refuse, Congress will be in a worse situation than at present; for as the Confederation now stands, and according to the nature even of alliances much less intimate, there is an implied right of coercion against the delinquent party, and the exercise of it by Congress, whenever a palpable necessity occurs, will probably be acquiesced in.

It may be asked, perhaps, by what means Congress could exercise such a power, if the States were to invest them with it. As long as there is a regular army on foot, a small detachment from it, acting under civil authority, would at any time render a voluntary contribution of supplies due from a State, an eligible alternative. But there is a still more easy and efficacious mode. The situation of most of the States is such, that two or three vessels of force employed against their trade will make it their interest to yield prompt obedience to all just requisitions on them. With respect to those States that have little or no foreign trade of their own, it is provided that all inland trade with such States as supply them with foreign merchandize may be interdicted, and the concurrence of the latter may be enforced, in case of refusal, by operations on their foreign trade.

There is a collateral reason which interests the States who are feeble in maritime resources, in such a plan. If a naval armament was considered as the proper instrument of general government, it would be, both preserved in a respectable state in time of

peace, and it would be an object to man it with citizens, taken in due proportions, from every State. A navy so formed, and under the orders of the General Council of the State, would not only be a guard against aggressions and insults from abroad, but, without it, what is to protect the Southern States, for many years to come, against the insults and aggressions of their northern brethren?

THE REPORT.

Whereas it is stipulated and declared in the 13th Article of the Confederation, "that every State shall abide by the determinations of the United States in Congress assembled, on all questions which by this Confederation are submitted to them: And that the Articles of this Confederation shall be inviolably observed by every State;" by which Article a general and implied power is vested in the United States in Congress assembled, to enforce and carry into effect all the Articles of the said Confederation against any of the States which shall refuse or neglect to abide by such their determinations, or shall otherwise violate any of the articles; but no determinate and particular provision is made for that purpose: And whereas the want of such provision may be a pretext to call into question the legality of such measures as may be necessary for preserving the authority of the Confederation, and for doing justice to the States which shall duly fulfil their federal engagements; and it is, moreover, most consonant to the spirit of a free Constitution, that, on the one hand, all exercise

of power should be explicitly and precisely warranted, and, on the other, that the penal consequences of a violation of duty should be clearly promulged and understood: And whereas it is further declared by the said 13th Article of the Confederation, that no addition shall be made to the articles thereof, unless the same shall be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State: The United States in Congress assembled, having seriously and maturely deliberated on these considerations, and being desirous as far as possible to cement and invigorate the Federal Union, that it may be both established on the most immutable basis, and be the more effectual for securing the immediate object of it, do hereby agree and recommend to the Legislatures of every State, to confirm and to authorize their Delegates in Congress to subscribe the following clause as an additional article to the thirteen Articles of Confederation and perpetual union :

It is understood and hereby declared, that in case any one or more of the confederated States shall refuse or neglect to abide by the determinations of the United States in Congress assembled, and to observe all the Articles of Confederation as required by the 13th Article, the said United States in Congress assembled, are fully authorized to employ the force of the United States, as well by sea as by land, to compel such State or States to fulfil their federal engagements; and particularly to make distrain on any of the effects, vessels, and merchandizes of such State or States, or of any of the citizens thereof, wherever found, and to prohibit and prevent their trade and

intercourse as well with any other of the United States and the citizens thereof, as with any foreign State, and as well by land as by sea, until full compensation or compliance be obtained with respect to all requisitions made by the United States in Congress assembled, in pursuance of the Articles of Confederation.

And it is understood, and is hereby agreed, that this Article shall be binding on all the States not actually in possession of the enemy, as soon as the same shall be acceded to and duly ratified by each of the said States.

TO THOMAS JEFFERSON.

Philadelphia, May 1, 1781.

DEAR SIR,

Congress have received a good deal of information from Europe within a few days past. I can only say, in general, that it is unfavourable. Indeed, whatever consideration the powers of Europe may have for us, the audacious proceedings of our enemy in all quarters must determine them to abridge a power which the greatest dangers and distresses cannot inspire with moderation or forbearance.

TO EDMUND RANDOLPH.

Philadelphia, May 1, 1781.

DEAR SIR,

The case of the vessel captured within North Carolina was some time since remitted to Congress by

Governor Harrison. I am glad to find your ideas correspond so exactly with those I had advanced on the subject. The legislative power over captures, and the judiciary in the last resort, are clearly vested in Congress by the Confederation. But the judiciary power in the first instance, not being delegated, is as clearly reserved to the Admiralty Courts of the particular States within which the captures are made. Captures made on the high seas must fall within the jurisdiction of the State into which it shall please the captor to carry them. It will be sufficient, I believe, to insert in the instructions to privateers, a clause for preventing the grievance complained of by North Carolina. The anger of Mr. Burke was erroneous in its principle, as well as intemperate in its degree. The offender being an officer of Congress, and not of Virginia, Congress, and not Virginia, should have been resorted to for redress.

On a consultation before Doctor Lee left us, it was determined that we ought to renew our attempts to obtain from Congress a decision on the cession of Virginia, before the meeting of the Legislature. The attempt was accordingly made, and produced all the perplexing and dilatory objections which its adversaries could devise. An indisposition of the President,* which suspended the vote of Maryland, furnished an argument for postponing, which it was prudent to yield to, but which is now removed by the arrival of Mr. Wright, a new Delegate from that State. We shall call again on Congress for a simple answer in the affirmative or the negative, without going into any unnecessary discussions on the point

* He was one of the Maryland Delegates.

of right; and should the decision be postponed *sine die*, we hope the State will consider itself at liberty to take any course which its interest shall suggest. It happens very unluckily that Virginia will only have two Representatives present during the interesting business. Mr. Jones cannot be prevailed on to wait the event. Colonel Bland thinks the validity of charters unimportant to the title of Virginia, and that the title of the natives militates against the claims of the companies. Is not my situation an enviable one?

A further communication from the French Minister informs us, that the Court of France laments the weakness of our army; insinuates the idea of co-operation in expelling the enemy from the United States; apprehends attempts to seduce the States into separate negotiations, and hopes measures will be taken to frustrate such views. I believe, from this and other circumstances, that the Court of France begins to have serious suspicions of some latent danger. It is extremely probable, that as the enemy relax in their military exertions against this country, they will redouble the means of seduction and division. This consideration is an additional argument in favor of a full representation of the States. In a multitude of counsellors there is the best chance for honesty, if not of wisdom.

The subject of Vermont has not yet been called up. Their agents and those of the land-mongers are playing with great adroitness into each others' hands. Mr. Jones will explain this game to you. Colonel Bland is still schismatical on this point. I flatter myself, however, that he will so far respect the united

opinion of his brethren as to be silent. Mr. Lee entered fully into the policy of keeping the vote of Vermont out of Congress.

The refugees from New York have lately perpetrated one of the most daring and flagrant acts that has occurred in the course of the war. A captain of militia of New Jersey, who unfortunately fell a captive into their hands, was carried to New York, confined successively in different prisons, and treated with every mark of insult and cruelty; and finally brought over to the Jerseys, and in cold blood hanged. A label was left on his breast, charging him with having murdered one of their fraternity, and denouncing a like fate to others. The charge has been disproved by unexceptionable testimony. A number of respectable people of New Jersey have, by a memorial, called aloud on the Commander-in-Chief for retaliation; in consequence of which he has, in the most decisive terms, claimed of Sir Henry Clinton a delivery of the offenders up to justice, as the only means of averting the stroke of vengeance from the innocent head of a captive officer of equal rank to the Jersey captain. The answer of Clinton was not received when General Washington despatched a state of the transaction to Congress.

TO THOMAS JEFFERSON.

Philadelphia, May 5, 1781.

DEAR SIR,

In compliance with your request, I have procured and now send you a copy of the Constitutions, &c., published by order of Congress. I know not why

the order in which they stand in the resolution was varied by the committee in binding them up. The encomiums on the inhabitants of Rhode Island was a flourish of a Delegate from that State, who furnished the committee with the account of its Constitution, and was very inconsiderately suffered to be printed.

TO EDMUND PENDLETON.

Philadelphia, May 29, 1781.

DEAR SIR,

The two circumstances relating to the proposed duty on trade, mentioned in your favor of the first instant, were subjects of discussion when the measure was on the anvil. It was evident that the disposition of the States to invest Congress with such a power would be influenced by the length of the term assigned for the exercise of it. It was equally evident that no provision would satisfy the present creditors of the United States, or obtain future loans, that was not commensurate to all the public engagements. In order to reconcile these points, the duration of the impost was limited, but limited in so indefinite a manner as not to defeat the object of it. Should the increase of trade render the duty more productive than was estimated, it must the sooner extinguish the public debts, and cease. The application of Congress for such a power supposes, indeed, a confidence in them, on the part of the States, greater perhaps than many may think consistent with republican jealousy; but if the States will not enable their Representatives to fulfil their engage-

ments, it is not to be expected that individuals either in Europe or America will confide in them. The second objection you mention was also a subject of much discussion in Congress. On one side it was contended that the powers incident to the collection of a duty on trade were in their nature so municipal, and in their operation so irritative, that it was improbable that the States could be prevailed on to part with them; and that, consequently, it would be most prudent to ask from the States nothing more than the duty itself, to be collected by State officers, and paid to a Continental Receiver; and not the right of collecting it by officers of Congress. On the opposite side it was urged, that as Congress would be held responsible for the public debts, it was necessary, and would be expected, that the fund granted for discharging them should be exclusively and independently in their hands; that if the collectors were under the control of the States, the urgency of their wants would be constantly diverting the revenue from its proper destination; that if the States were willing to give up the thing itself, it was not likely they would cavil at any form that would be most effectual; that the term proposed might be reconciled with their internal jurisdictions, by annexing to the *office* of collector all the powers incident thereto, and leaving to Congress the right of appointing the *officer*. How far it may be best to appoint the established naval officer, I am not prepared to say; but should that be found to be the case, they will exercise their new functions, not as naval officers of the State, but as invested with a separate commission by Congress, in such manner that in the former

respect they are wholly exempt from the jurisdiction of Congress, and in the latter from that of the State. Such a junction of powers, derived from different sources, in the same person, certainly has its inconveniences, but there will be many instances of it in our complex government. I have met with so many interruptions this morning, that I fear I may have not done justice to the subject in my explanation of it. Another consequence is, that I must be very brief on the head of intelligence to make sure of the post.

TO EDMUND PENDLETON.

Philadelphia, August 14, 1781.

DEAR SIR,

The controversy relating to the district called Vermont, the inhabitants of which have for several years claimed and exercised the jurisdiction of an independent State, is at length put into a train of speedy decision. Notwithstanding the objections to such an event, there is no question but they will soon be established into a separate and Federal State. A relinquishment made by Massachusetts of her claims; a despair of finally obtaining theirs on the part of New York and New Hampshire, the other claimants, on whom these enterprising adventurers were making fresh encroachments; the latent support afforded them by the leading people of the New England States in general, from which they emigrated; the just ground of apprehension that their rulers were engaging in clandestine negotiations with

the enemy; and lastly, perhaps, the jealous policy of some of the little States, which hope that such a precedent may engender a division of some of the large ones, are the circumstances which will determine the concurrence of Congress in this affair.

TO EDMUND PENDLETON.

Philadelphia, September 3, 1781.

DEAR SIR,

I am favored with yours of the 27th ultimo. This letter will be the most agreeable of any I have long had the pleasure of writing. I begin with informing you that the Commander-in-Chief and the Count Rochambeau,—the former with a part of the American army, and the latter with the whole of the French,—are thus far on their way for the Southern Department. The American troops passed through the town yesterday. The first division of the French to-day. The second will pass to-morrow. Nothing can exceed the appearance of this specimen which our Ally has sent us of his army, whether we regard the figure of the men, or the exactness of their discipline.

Yesterday also arrived, from his special mission to the Court of France, Colonel John Laurens. Although his success has not been fully commensurate to our wishes, he has brought with him very *substantial* proofs of the determination of that Court to support us. Besides a considerable quantity of clothing and other valuable articles, there are upwards of sixteen thousand stand of arms. It is rather unlucky

that they found it expedient to put into Boston, instead of this place, from whence the distribution of them would have been so much more easy.

I wish I could have concluded the intelligence without adding that Admiral Hood, with thirteen sail of the line from the West Indies, lately arrived at New York, and after being joined by Graves with eight ships, put again immediately to sea. The French squadron under De Barras had previously sailed from Newport. As the expected arrival of De Grasse from the West Indies could not be unknown to Hood, there is little doubt that his activity is directed against the junction of the two French fleets.

TO EDMUND PENDLETON.

Philadelphia, October 30, 1781.

DEAR SIR,

I return you my fervent congratulations on the glorious success of the combined arms at York and Gloucester. We have had from the Commander-in-Chief an official report of the fact, with a copy of the capitulation, and a general intimation that the number of prisoners, excluding seamen, &c., would exceed five thousand; but no detail of our gains. If these severe doses of ill fortune do not cool the phrenzy and relax the pride of Britain, it would seem as if Heaven had in reality abandoned her to her folly and her fate. This campaign was grounded on the most intense exertion of her pecuniary resources. Upwards of twenty millions were voted by the Par-

liament. The King acknowledged that it was all he asked, and all that was necessary. A fair trial has then been made of her strength; and what is the result? They have lost another army, another colony, another island, and another fleet of her trade; their possessions in the East Indies, which were so rich a source of their commerce and credit, have been severed from them, perhaps for ever; their naval armaments, the bulwarks of their safety, and the idols of their vanity, have in every contest felt the rising superiority of their enemies. In no points have they succeeded, except in the predatory conquest of Eustatia, of which they have lost the greatest part of every thing except the infamy, and in the relief of Gibraltar, which was merely a negative advantage. With what hope or with what view can they try the fortune of another campaign? Unless they can draw succour from the compassion or jealousy of other powers, of which it does not yet appear that they have any well-founded expectation, it seems scarcely possible for them much longer to shut their ears against the voice of peace.

I am sorry to find that the practice of impressing is still kept up with you. It is partial and oppressive with respect to individuals, and I wish it may not eventually prove so with respect to the State. The zeal and liberality of those States which make undue advances, may not find an equal disposition to reimburse them, in others which have had more caution, or less occasion for such exertions.

You are not mistaken in your apprehensions for our Western interests. An agrarian law is as much coveted by the little members of the Union, as ever

it was by the indigent citizens of Rome. The conditions annexed by Virginia to her territorial cession have furnished a committee of Congress a handle for taking up questions of right, both with respect to the ceding States, and the great Land Companies, which they have not before ventured to touch. We have made every opposition and remonstrance to the conduct of the committee which the forms of proceedings will admit. When a report is made, we shall renew our efforts upon more eligible ground, but with little hope of arresting any aggression upon Virginia which depends solely on the inclination of Congress. Since the close of the Confederation, however, it has been understood, that seven votes are necessary to carry every question. This rule, in proportion to the thinness of Congress, opposes a difficulty to those who attack. It will therefore, I believe, be impossible for the enemies of Virginia to obtain any positive injury to her rights. My greatest anxiety at present is, lest the attempts for that purpose may exasperate the Assembly into measures which will furnish new hopes to the British Court to persevere in the war, and new baits for the credulity of the British nation. The good sense of the Assembly will, however, I flatter myself, temper every expression of their displeasure with due respect to this consideration. It would be particularly unhappy, if any symptoms of disunion among ourselves should blast the golden prospects which the events of the campaign have opened to us.

TO EDMUND PENDLETON.

Philadelphia, November 13, 1781.

DEAR SIR,

Nothing definitive has taken place on the territorial cessions. That of Virginia will not, I believe, be accepted with the conditions annexed to it. The opinion seems to be, that an acceptance of the cession of New York will give Congress a title which will be maintainable against all the other claimants. In this, however, they will certainly be deceived; and even if it were otherwise, it would be their true interest, as well as conformable to the plan on which the cessions were recommended, to bury all further contentions by covering the territory with the titles of as many of the claimants as possible. We are very anxious to bring the matter to issue, that the State may know what course their honor and security require them to take. The present thinness of Congress makes it but too uncertain when we shall be able to accomplish it.

Will not the Assembly pay some handsome compliments to the Marquis, for his judicious and zealous services whilst the protection of the country was entrusted to him? His having baffled, and finally reduced to the defensive, so powerful an army as we now know he had to contend with, and with so disproportionate a force, would have done honor to the most veteran officer, added to his other merits and services, constitutes a claim on their gratitude which I hope will not be unattended to.

TO THOMAS JEFFERSON.

Philadelphia, November 18, 1781.

DEAR SIR,

By the conveyance through which you will receive this, the Delegates have communicated to the State the proceedings in Congress to which the territorial cessions have given birth. The complexion of them will, I suppose, be somewhat unexpected, and produce no small irritation. They clearly speak the hostile machinations of some of the States against our territorial claims, and afford suspicions that the predominant temper of Congress may coincide with them. It is proper to recollect, however, that the report of the Committee having not yet been taken into consideration, no certain inference can be drawn as to its issue; and that the report itself is not founded on the obnoxious doctrine of an inherent right in the United States to the territory in question, but on the expediency of clothing them with the title of New York, which is supposed to be maintainable against all others. It is proper also to be considered, that the proceedings of the Committee, which we labored in vain to arrest, were vindicated not by the pretext of a jurisdiction belonging to Congress in such cases, but alleged to have been made necessary by the conditions annexed to the cession of Virginia. Although the cession of Virginia will probably be rejected, on the whole, I do not think it probable that all the principles and positions contained in the report of the Committee will be ratified. The Committee was composed of a member from Maryland, Pennsylvania, New Jersey, Rhode

Island and New Hampshire; all of which States, except the last, are systematically and notoriously adverse to the claims of Western Territory, and particularly those of Virginia. The opinion of the Committee is therefore no just index of the opinion of Congress; and it is a rule observed since the Confederation was completed, that seven States are requisite in any question, and there are seldom more than seven, eight, nine or ten States present; even the opinion of a majority of Congress is a very different thing from a constitutional vote. I mention these particulars, that you may be the better able to counteract any intemperate measures that may be urged in the Legislature. If the State wishes any particular steps to be pursued by the Delegates, it would be well for particular instructions to that effect to be given. These will not only be a guide to us, but will give greater weight to whatever is urged by us.

I enclose you a paper containing two of the many letters lately published in New York, with the subscription of Mr. Deane's name. The genuineness of some of them, and particularly that to Mr. Morris, is generally doubted. There are some who think the whole of them spurious. However this may be, there is, through another channel, indubitable proof that no injustice is done in ascribing to him the sentiments advanced in these letters. Either from pique, interested projects of trade, or a traitorous correspondence with the enemy, he has certainly apostatized from his first principles.

TO EDMUND PENDLETON.

Philadelphia, January 8, 1782.

DEAR SIR,

Yesterday was opened, for the first time, the Bank instituted under the auspices of Congress. Its principal founder is Mr. Robert Morris, who has certain prerogatives with respect to it in his quality of Superintendent of Finance. It is pretty analogous in its principles to the Bank of England. The stock subscribed is 400,000 dollars. When the scheme was originally proposed to Congress for their approbation and patronage, a promise was given that as soon as it was ripe for operation the company should be incorporated. A few days ago the fulfilment of the promise was claimed.¹⁰ The competency of Congress to such an act had been called in question in the first instance; but the subject not lying in so near and distinct a view, the objections did not prevail. On the last occasion, the general opinion, though with some exceptions, was, that the Confederation gave no such power, and that the exercise of it would not bear the test of a forensic disquisition, and consequently would not avail the Institution. The Bank, however, supposing that such a sanction from Congress would at least give it a dignity and pre-eminence in the public opinion, urged the engagement of Congress; that on this engagement the subscriptions had been made, and that a disappointment would leave the subscribers free to withdraw their names. These considerations were re-inforced by the Superintendent of Finance, who relied on this

Institution as a great auxiliary to his department; and, in particular, expected aid from it in a payment he is exerting himself to make to the army. The immediate interposition of Congress was rendered the more essential, too, by the sudden adjournment of the Assembly of this State, to whom the Bank might have been referred for the desired incorporation, which, it was the opinion of many, would have given them a sufficient legal existence in every State. You will conceive the dilemma in which these circumstances placed the members who felt on one side the importance of the Institution, and on the other a want of power, and an aversion to assume it. Something like a middle way finally produced an acquiescing, rather than an affirmative, vote. A charter of incorporation was granted, with a recommendation to the States to give it all the necessary validity within their respective jurisdictions. As this is a tacit admission of a defect of power, I hope it will be an antidote against the poisonous tendency of precedents of usurpation.

In the ordinance lately passed for regulating captures, which I presume you have seen, a clause was inserted exposing to capture all merchandizes produced in Great Britain, if coming into these States, and within three leagues of the coast, although the property of a neutral nation. Congress have now recommended to the States to subject them to seizure, during the war, if found on land within their respective limits. These measures had become necessary to check an evil which was every day increasing, and which both enabled and encouraged Great Britain to persevere in the war, at the same

time that it mortified our ally with daily seeing the fruits of his generosity to us remitted in payment to the rival of his nation and the enemy of both.

TO THOMAS JEFFERSON.

Philadelphia, January 15, 1782.

DEAR SIR,

The result of the attack on your administration was so fully anticipated that it made little impression on me. If it had been consistent with your sentiments and views to engage in the service to which you were called, it would have afforded me both unexpected and singular satisfaction, not only from the personal interest I felt in it, but from the important aid which the interests of the State would probably have derived from it. What I particularly refer to is her claim to Western territory. The machinations which have long been practised by interested individuals against this claim, are well known to you. The late proceedings within the walls of Congress, in consequence of the territorial cessions, produced by their recommendations to the States claiming the Western country, were, many weeks ago, transmitted for the Legislature by a Captain Irish. By the same conveyance I wrote to you on the subject. We have the mortification to find, by our latest letters from Richmond, that this gentleman had not, at the date of them, appeared there. As it is uncertain whether that information may not have totally miscarried, it will be proper to repeat to you that the States, besides Virginia, from

which the cessions came, were Connecticut and New York. The cession of the former consisted of all her claim west of New York as far as the Mississippi. That of the latter, of all her claims beyond a certain western limit, drawn on the occasion. The cession of Connecticut extended to the soil only, expressly reserving the jurisdiction. That of New York made no reservation. These cessions, with that of Virginia, and sundry memorials from the Indiana and other land companies, were referred to a committee, composed of a member from New Hampshire, Rhode Island, New Jersey, Pennsylvania and Maryland. The ingredients of this composition prepared us for the complexion of their proceedings. Their first step was to investigate and discuss the respective titles of the States to the territory ceded. As this was directly in the face of the recommendation of Congress, which professed to bury all such discussions, and might prejudice future controversies between individual members of the Union, we refused to exhibit any evidence in favor of the title of Virginia, and endeavored, though in vain, to prevail on Congress to interdict the Committee from proceeding in the inquiry. The next step of the Committee was still more obnoxious. They went fully into a hearing of the memorialists through their agent, and received all the evidence adduced in support of their pretensions." On this occasion we renewed our remonstrances to the Committee, and our complaints to Congress, but with as little effect as on the first occasion. The upshot of the whole was a report to Congress, rejecting the cessions of Connecticut and Virginia, and accepting that of New

York; disallowing also the claims of the companies northwest of the Ohio, but justifying that of the Indiana company. The report seems to distrust the doctrine hitherto maintained, of territorial rights being incident to the United States collectively, which are not comprehended within any individual State; substituting the expedient of recognizing the title of New York stretching, over the whole country claimed by the other ceding States, and then accepting a transfer of it to the United States. In this state the business now rests—the report having never been taken into consideration; nor do we wish it should, till it shall have undergone the consideration of Virginia.

In whatever light the policy of this proceeding may be viewed, it affords an additional proof of the industry and perseverance with which the territorial rights of Virginia are persecuted, and of the necessity of fortifying them with every precaution which their importance demands. As a very obvious and necessary one, we long since recommended to the State an accurate and full collection of the documents which relate to the subject. If the arrival of Captain Irish had taken place before the adjournment of the Assembly, and during your stay with it, we flattered ourselves that the recommendation would have been attended to, and that the task would have fallen on you. As this was not the case, we have no hope at present of being enabled, from any other sources than the voluntary aid of individuals, to contradict even verbally the misrepresentations and calumnies which are daily levelled against the claims of Virginia, and which cannot

fail to prepossess the public with errors, injurious at present to her reputation, and which may affect a future decision on her rights. Colonel Mason's industry and kindness have supplied us with some valuable papers and remarks. Mr. Jones has also received from Mr. Pendleton some judicious remarks on the subject. We are still, notwithstanding, far from possessing a complete view of it. Will you permit me to ask of you such information as your researches have yielded, with the observations which you have made in the course of them. I would not obtrude such a request on you if the subject were not of public importance, and if it could have been addressed with equal prospect of advantage elsewhere. Indeed, if you could prevail on yourself to spare as much time as would survey the whole subject, beginning with the original charter, pursuing it through the subsequent charters and other public acts of the crown, through the government of Virginia, and referring to all the transactions with the Indians which have been drawn into the question, the public utility, I am persuaded, would sufficiently reward you for the labor.

TO EDMUND PENDLETON.

Philadelphia, January 22, 1782.

DEAR SIR,

Congress are much occupied and perplexed at present with the case of Vermont. The pretensions of that settlement to the character of an independent State, with the grounds on which they are

made, and the countenance given them by Congress, are, I presume, pretty well known to you. It has long been contended, that an explicit acknowledgment of that character, and an admission of them into the Federal Union, was an act both of justice and policy. The discovery made through several channels, and particularly the intercepted letters of Lord G. Germaine, added such force to the latter of these considerations, that in the course of last summer preliminary overtures were made on the part of Congress for taking them into the Confederation, containing, as one condition on the part of Vermont, that they should contract their claims within the bounds to which they were originally confined, and guaranteeing to New York and New Hampshire all the territory without those bounds to which their encroachments had been extended. Instead of complying with this condition, they have gone on in their encroachments both on the New York and New Hampshire sides, and there is at this moment every symptom of approaching hostility with each of them. In this delicate crisis, the interposition of Congress is again called for, and, indeed, seems to be indispensable; but whether in the way of military coercion, or a renewal of former overtures, or by making the first a condition of a refusal of the last, is not so unanimously decided. Indeed, with several members, and, I may say, States in Congress, a want of power either to decide on their independence, or to open the door of the Confederacy to them, is utterly disclaimed; besides which the danger of the precedent, and the preponderancy it would give to the Eastern scale, deserve serious consideration.

These reasons, nevertheless, can only prevail when the alternative contains fewer evils. It is very unhappy that such plausible prettexts, if not necessary occasions, of assuming power should occur. Nothing is more distressing to those who have a true respect for the constitutional modifications of power, than to be obliged to decide on them.

TO EDMUND RANDOLPH.

Philadelphia, January 22, 1782.

DEAR SIR,

The repeal of the impost act by Virginia is still considered as covered with some degree of mystery. Colonel Bland's representations do not remove the veil. Indeed, he seems as much astonished at it, and as unable to penetrate it, as any of us. Many have surmised that the enmity of Doctor Lee against Morris is at the bottom of it. But had that been the case, it can scarcely be supposed that the repeal would have passed so quietly. By this time, I presume, you will be able to furnish me with its true history, and I ask the favor of you to do it. Virginia could never have cut off this source of public relief at a more unlucky crisis than when she is protesting her inability to comply with the continental requisitions. She will, I hope, be yet made sensible of the impropriety of the step she has taken, and make amends by a more liberal grant. Congress cannot abandon the plan as long as there is a spark of hope. Nay, other plans on a like principle must be added. Justice, gratitude, our reputation abroad,

and our tranquillity at home, require provision for a debt of not less than fifty millions of dollars, and I pronounce that this provision will not be adequately met by separate acts of the States. If there are not revenue laws which operate at the same time through all the States, and are exempt from the control of each—the mutual jealousies which begin already to appear among them will assuredly defraud both our foreign and domestic creditors of their just claims.

The deputies of the army are still here, urging the objects of their mission. Congress are thoroughly impressed with the justice of them, and are disposed to do every thing which depends on them. But what can a Virginia Delegate say to them, whose constituents declare that they are unable to make the necessary contributions, and unwilling to establish funds for obtaining them elsewhere? The valuation of lands is still under consideration.

TO EDMUND PENDLETON.

Philadelphia, February 7, 1782.

DEAR SIR,

Congress are still occupied with the thorny subject of Vermont. Some plan for a general liquidation and apportionment of the public debts is also under their consideration, and I fear will be little less perplexing. It is proposed that until justice and the situation of the States will admit of a valuation of lands, the States should be applied to for power to substitute such other rule of apportioning

the expenditures as shall be equitable and practicable, and that Commissioners be appointed by the concurrent act of the United States and each State, to settle the accounts between them. The scheme is not yet matured, and will meet with many difficulties in its passage through Congress. I wish it may not meet with much greater when it goes down to the States. A spirit of accommodation alone can render it unanimously admissible; a spirit which but too little prevails, but which in few instances is more powerfully recommended by the occasion than the present. If our voluminous and entangled accounts be not put into some certain course of settlement before a foreign war is off our hands, it is easy to see they must prove an exuberant and formidable source of intestine dissensions.

TO EDMUND PENDLETON.

Philadelphia, February 25, 1782.

DEAR SIR,

You have been misinformed, I find, with respect to that article in the scheme of the Bank, which claims for it the exclusive privilege of issuing circulating notes. It is true, Congress have recommended to the States to allow it such a privilege, but it is to be considered only during the present war. Under such a limitation it was conceived both necessary to the success of the scheme, and consistent with the policy of the several States; it being improbable that the collective credit and specie of the whole would support more than one such institution,

or that any particular State would, during the war, stake its credit anew on any paper experiment whatever.

TO THOMAS JEFFERSON.

Philadelphia, March 18, 1782.

DEAR SIR,

I have met with a bundle of old pamphlets belonging to the public library here, in which is a map published in 1650, which, from this and other circumstances, I am pretty confident is of the same impression with that of Dr. Smith's.¹² It represents the South Sea at about ten days' travel from the heads or falls, I forget which, of James River. From the tenor, however, of the pamphlet to which it is immediately annexed, and indeed of the whole collection, there is just ground to suspect that this representation was an artifice to favor the object of the publications, which evidently was to entice emigrants from England by a flattering picture of the advantages of this country, one of which, dwelt on in all the pamphlets, is the vicinity of the South Sea, and the facility it afforded of a trade with the Eastern world. Another circumstance, which lessens much the value of this map to the antiquary, is, that it is more modern by twenty-five years than those extant in Purchase's Pilgrim, which are referred to in the negotiations between the British and French Commissaries touching the bounds of Nova Scotia, as the first of authenticity relating to this part of the world. If, notwithstanding these considerations, you still desire that a copy be taken from the map

above described, I shall with pleasure execute your orders; or if you wish that a copy of Virginia, or of the whole country, may be taken from those in Purchase, your orders shall be equally attended to. I much doubt, however, whether that book be so extremely scarce as to require a transcript from it for the purpose you seem to have in view.

Congress have taken no step in the business of the Western territory since the report of the Committee, of which I have already given you an account, and which, we hear, arrived at Richmond on the day of the adjournment of the Assembly. We wish it to undergo their consideration, and to receive their instructions before we again move in it.

TO EDMUND PENDLETON.

Philadelphia, March 19, 1782.

DEAR SIR,

The Ministerial speeches, with other circumstances, place it beyond a doubt that the plan for recovering America will be changed. A separate peace with the Dutch—a suspension of the offensive war here—an exertion of their resources thus disencumbered against the naval power of France and Spain—and a renewal of the arts of seduction and division in the United States, will probably constitute the outlines of the new plan. Whether they will succeed in the first article of it, cannot be ascertained by the last intelligence we have from Holland. It is only certain that negotiations are on foot, under the auspices of the Empress of Russia.

TO THOMAS JEFFERSON.

Philadelphia, March 26, 1782.

DEAR SIR,

A letter has been lately received from you by the President of Congress, accompanied by a bundle of papers procured from the Cherokees by Colonel Campbell. As it appears that these papers were transmitted at the request of the late President, it is proper to apprise you that it was made without any written or verbal sanction, and even without the knowledge of Congress; and not improbably with a view of fishing for discoveries which may be subservient to the aggressions meditated on the territorial rights of Virginia. It would have been unnecessary to trouble you with this, had it not appeared that Colonel Campbell has given a promise of other papers; which if he should fulfil, and the papers contain any thing which the adversaries of Virginia may make an ill use of, you will not suffer any respect for the acts of Congress to induce you to forward hither.

TO EDMUND PENDLETON.

Philadelphia, April 2, 1782.

DEAR SIR,

The only event with which the period since my last has enabled me to repay your favor of the twenty-fifth ultimo, is the arrival of four Deputies from Vermont, with a plenipotentiary commission to ac-

cede to the Confederacy. The business is referred to a committee who are sufficiently devoted to the policy of gaining the vote of Vermont into Congress. The result will be the subject of a future letter.

The thinness, or rather vacancy, of the Virginia line, and the little prospect of recruiting it, are subjects of a very distressing nature. If those on whom the remedy depends were sensible of the insulting comparisons to which they expose the State, and of the wound they give to her influence in the general councils, I am persuaded more decisive exertions would be made. Considering the extensive interests and claims which Virginia has, and the enemies and calumnies which these very claims form against her, she is perhaps under the strongest obligation of any State in the Union, to preserve her military contingent on a respectable footing; and unhappily her line is perhaps, of all, in the most disgraceful condition. The only hope that remains is, that her true policy will be better consulted at the ensuing Assembly, and that as far as a proper sense of it may be deficient, the expostulations of her friends, and clamors of her enemies, will supply the place of it. If I speak my sentiments too freely on this point, it can only be imputed to my sensibility to the honor and interest of my country.

TO EDMUND RANDOLPH.

Philadelphia, April 9, 1782.

DEAR SIR,

I perceive, by a passage cited in the examination of the Connecticut claim to lands in Pennsylvania, that we have been mistaken in supposing the acquiescence of Virginia in the defalcations of her chartered territory to have been a silent one. It said that "at a meeting of the Privy Council, July 3d, 1633, was taken into consideration the petition of the planters of Virginia, remonstrating that some grants had lately been obtained of a great proportion of the lands and territories within the limits of the Colony there; and a day was ordered for further hearing the parties, (to wit: Lord Baltimore, and said adventurers and planters.)" The decision against Virginia is urged as proof that the Crown did not regard the charter as in force with respect to the bounds of Virginia. It is clearly a proof that Virginia at that time thought otherwise, and made all the opposition to the encroachment which could then have been made to the arbitrary acts which gave birth to the present revolution. If any monuments exist of the transactions of Virginia at the period above mentioned, or any of the successive periods, at which these encroachments had been repeated, you will have an opportunity of searching more minutely into them. It is not probable, however, that after a failure in the first opposition any further opposition will be found to subsequent grants out of Virginia.

TO THOMAS JEFFERSON.

Philadelphia, April 16, 1782.

DEAR SIR,

I entreat that you will not suffer the chance of a speedy and final determination of the Territorial Question, by Congress, to affect your purpose of tracing the title of Virginia to her claims. It is, in the first place, very uncertain when a determination will take place, even if it takes place at all; and in the next it will assuredly not be a final one, unless Virginia means to be passive and silent under aggression on her rights. In every event, therefore, it is proper to be armed with every argument and document that can vindicate her title. Her adversaries will be either the United States, or New York, or both. The former will either claim on the principle that the vacant country is not included in any particular State, and consequently falls to the whole, or will clothe themselves with the title of the latter by accepting its cession. In both cases it will be alleged, that the charter of 1609 was annulled by the resumption of it into the hands of the Crown, and that the subsequent grants to Maryland, &c., denote this to have been the construction of it; that the proclamation of 1763 has constituted the Alleghany ridge the Western limit of Virginia, and that the letter of President Nelson, on the subject of a new Colony on the Ohio, relinquishes on the part of Virginia all interference with the authority of the Crown beyond that limit. In case the title of New York should alone be opposed to that of Virginia, it will be further alleged

against the latter, that the treaties of 1684, 1701, 1726, 1744, and 1754, between the Government of the former and the Six Nations, have annexed to it all the country claimed by these nations and their tributaries, and that the expense of New York in defending and protecting them ought in equity to be reimbursed by this exclusive advantage. The original title of New York is indeed drawn from the charter to the Duke of York in 1663-4, renewed after the treaty of Westminster in 1674. But this charter will not, I believe, reach any territory claimed by Virginia.

Much stress will also be laid on the treaty of Fort Stanwix, particularly as a bar to any corroboration of the claim of Virginia from the treaties of Lancaster and Loggstown. It is under this treaty that the companies of Indiana and Vandalia shelter their pretensions against the claims of Virginia, &c. &c. See the pamphlets entitled "Public Good" and "Plain Facts." As these pretensions can be of no avail, unless the jurisdiction of Congress, or New York at least, can be established, they no otherwise deserve notice than as sources of calumny and influence in the public councils; in both which respects it is the interest of Virginia that an antidote should be applied.

TO EDMUND RANDOLPH.

Philadelphia, April 23, 1782.

DEAR SIR,

Congress have received from the Minister of France some informal communications relative to the issue of the proposed mediation of Vienna and Petersburg. The answer of the British Court to the preliminary articles is among them. It rejects explicitly that part of the plan which requires concurrent negotiations between her and America, and guaranties the result, as incompatible with the relation of subjects to their sovereign, and the essential interests of the Empire; alleging, at the same time, that a great part of the people are disposed to return to their allegiance, and that such a treaty would supply the rebels with new pretexts for misleading them. The final answer of the mediating Courts professes great impartiality and delicacy toward the belligerent parties; adheres to the expediency of the first plan, and hopes that it may still become, under more favorable circumstances, the basis of a general pacification.

Another letter has come to hand from Mr. Dana. His proposed step was probably taken a few days after the date of it, which was about the middle of October.¹³

The Committee on the last application from Vermont have reported fully in their favor.¹⁴ The consideration of the report will not be called for, however, till the pulse of nine States beats favorably for it. This is so uncertain that the agents have

returned. The recognition of the Independence of Vermont is not fully stated in the report, as a resolution, antecedent, went to authorizing a committee to treat with them on the terms of their admission. You will know the object of this arrangement.

OBSERVATIONS RELATING TO THE INFLUENCE OF VERMONT, AND THE TERRITORIAL CLAIMS, ON THE POLITICS OF CONGRESS. MAY 1ST, 1782.

The two great objects which predominate in the politics of Congress, at this juncture, are—first, Vermont; second, Western Territory:

First. The independence of Vermont, and its admission into the Confederacy, are patronized by the Eastern States (New Hampshire excepted.) 1st: From ancient prejudice against New York: 2nd: The interest which citizens of those States have in lands granted by Vermont: 3d: But principally from the accession of weight they will derive from it in Congress. New Hampshire having gained its main object, by the exclusion of its territory east of Connecticut River from the claims of Vermont, is already indifferent to its independence, and will probably soon combine with other Eastern States in its favor.

The same patronage is yielded to the pretensions of Vermont by Pennsylvania and Maryland, with the sole view of reinforcing the opposition to claims of Western territory, particularly those of Virginia; and by New Jersey and Delaware, with the addi-

tional view of strengthening the interests of the little States. Both of these considerations operate also on Rhode Island, in addition to the above mentioned.

The independence of Vermont, and its admission into the Union, are opposed by New York, for reasons obvious and well known.

The like opposition is made by Virginia, North Carolina, South Carolina and Georgia. The grounds of this opposition are, 1st: An habitual jealousy of a predominance of Eastern interest. 2nd: The opposition expected from Vermont to Western claims. 3d: The inexpediency of admitting so unimportant a State to an equal vote in deciding on peace, and all the other grand interests of the Union now depending. 4th: The influence of the example on a premature dismemberment of the other States. These considerations influence the four States last mentioned in different degrees. The second and third, to say nothing of the fourth, ought to be decisive with Virginia.

Second. The territorial claims, particularly those of Virginia, are opposed by Rhode Island, New Jersey, Pennsylvania, Delaware and Maryland. Rhode Island is influenced in her opposition by, 1st: A lucrative desire of sharing in the vacant territory as a fund of revenue. 2nd: By the envy and jealousy naturally excited by superior resources and importance. New Jersey, Pennsylvania, Delaware and Maryland are influenced partly by the same considerations; but principally by the intrigues of their citizens, who are interested in the claims of land companies. The decisive influence of this last consideration is manifest, from the peculiar and per-

severing opposition made against Virginia, within whose limits those claims lie.

The Western claims, or rather a final settlement of them, are also thwarted by Massachusetts and Connecticut. This object with them is chiefly subservient to that of Vermont, as the latter is with Pennsylvania and Maryland to the former. The general policy and interests of these two States are opposed to the admission of Vermont into the Union; and if the case of the Western territory were once removed, they would instantly divide from the Eastern States, in the case of Vermont. Of this Massachusetts and Connecticut are not insensible, and therefore find their advantage in keeping the territorial controversy pending. Connecticut may likewise conceive some analogy between her claims to the Western territory and that of Virginia, and that the acceptance of the cession of the latter would influence her sentiments in the controversy between the former and Pennsylvania.

The Western claims are espoused by Virginia, North and South Carolina, Georgia and New York, all of these States being interested therein. South Carolina is the least so. The claim of New York is very extensive, but her title very flimsy. She urges it more with the hope of obtaining some advantage, or credit, by its cession, than of ever maintaining it. If this cession should be accepted, and the affair of Vermont terminated, as these are the only ties which unite her with the Southern States, she will immediately connect her policy with that of the Eastern States; so far, at least, as the remains of former prejudices will permit.¹⁵

TO EDMUND RANDOLPH.

Philadelphia, May, 1782.

DEAR SIR,

'The enclosed gazette details all the information which we have received relative to the parliamentary advances towards a negotiation with the United States. The first reports which issued from the packet which brought them, were of a very different complexion, and raised high expectations of peace. We now find the ideas of the opposition, as well as the Ministry, to be far short of the only condition on which it can take place. Those who are the farthest reconciled to concessions calculate on a dissolution of the compact with France. The Ministry will yield to the experiment, and turn the result upon their adversaries. Our business is plain. Fidelity to our allies, and vigor in military preparation,—these, and these alone, will secure us against all political devices.

We have received no intelligence which speaks a danger of a separate peace between the Dutch and Great Britain. Mr. Adams' request of a categorical answer was taken, *ad referendum*, prior, if I mistake not, to the knowledge of Cornwallis' fate; and it is not likely that after that event they would be less disposed to respect our overtures, or reject those of the enemy.

We have letters from Mr. Jay and Mr. Carmichael of as late date as the twenty-seventh of February. They differ in nothing from the style of the former. The conduct of the Spanish Court subsequent to the

date of the letter received the day preceding your departure, corresponds entirely with the tenor of it as therein related. Mr. Jones will inform you of the act of Congress which that letter produced.

We have made no progress in the Western subject. We mean to desist, after one or two more attempts, and state the matter to the Assembly by next post, expecting that they will pursue such measures as their interest prescribes, without regard to the resolutions which proposed the cession.

I beg you to keep me punctually informed of every legislative step touching the Western territory. I suppose the cession cannot fail to be revoked, or, at least, a day of limitation set to it. The condition relative to the companies will certainly be adhered to in every event. I find that those who have been against us do not wish to lose sight of the prospect altogether. If the State is firm and prudent, I have little doubt that she will be again courted. Previous to Mr. Jones' departure, our opinions were united on the expediency of making the impost of five per cent. subservient to an honorable adjustment of territory and accounts. I have since discovered that Varnum is left out, the latter having promoted it, and that Chase is inflexible against it. Massachusetts also holds out. The expedient, therefore, would not be efficacious, and clamors would be drawn on Virginia, which it would be best should fall elsewhere. Show this to Mr. Jones. He will be with you about the twentieth instant.

TO EDMUND RANDOLPH.

Philadelphia, May 14, 1782.

DEAR SIR,

The Ceres man-of-war, we are informed by a New York paper, arrived there, in twenty-five days, on the fifth instant, having on board His Excellency, Sir Guy Carleton, Commander-in-Chief, &c., and *commissioned for making peace or war* in North America. The intelligence brought by this conveyance is, that the vibrations of power between the Ministry and their rivals had terminated in the complete dissolution of the former and organization of the latter. What change of measures will follow this change of men is yet concealed from us. The bill for empowering the King to conclude a peace or truce with the revolted Colonies in North America had been brought into Parliament on the twenty-seventh of March. The language of it is at the same time cautious and comprehensive, and seems to make eventual provision for our independence, without betraying any purpose of acknowledging it. The terms peace and truce are scarcely applicable to any other conventions than national ones. And the King is authorized to annul or suspend all acts of Parliament whatever, as far as they speak of the Colonies. He can, therefore, clearly remove any parliamentary bar to his recognition of our Independence, and I know of no other bar to his treating with America on that ground. All this is, however, very different from a real peace. The King will assuredly prefer war as long as his Ministry will stand by him, and

the sentiments of his present Ministry, particularly of Shelburne, are as peremptory against the dismemberment of the Empire as those of any of their predecessors. They will at least try a campaign of negotiation against the United States, and of war against their other enemies, before they submit to it. It is probable that the arrival of Sir Guy Carleton will not long precede an opening of the first campaign. Congress will, I am persuaded, give a proper verbal answer to any overtures with which he may insult them; but the best answer will come from the States, in such supplies of men and money as will expel him and all our other enemies from the United States.

We have at length brought our territorial business to an issue. It was postponed *sine die* on the sixth instant. We have transmitted the whole proceeding to the Governor, to be laid before the Assembly.

There are various accounts from the West Indies, which render it pretty certain that an engagement has taken place between the two fleets. The circumstances are not ascertained. The issue seems, at least, to have been so far in favor of our allies as to leave them free to pursue their course with their convoy to Hispaniola, where a junction is to be made with the Spaniards. The object of this junction is universally supposed to be Jamaica.

Since I finished the above, a letter has come to Congress from General Washington, enclosing one to him from Sir Guy Carleton, announcing his commission, in conjunction with Admiral Digby, to treat of peace with this country, and requesting a pass-

port for his secretary, Mr. Morgan, to bring a similar *letter of compliment* to Congress. The request will certainly be refused, and General Washington probably directed to receive and forward any despatches which may be properly addressed to Congress.

A public audience was yesterday given to the Minister of France, in which he formally announced the birth of the Dauphin. It was deemed politic at this crisis to display every proper evidence of affectionate attachment to our ally. The Minister was accordingly received with military honors, and the audience concluded with the discharge of cannon, and a *feu de joi* of small arms. A public entertainment followed, and fireworks at night closed the scene.¹⁶

The answer reported by the committee on Mr. Dana's letter gave him a cautionary instruction. It afterwards went to the Secretary of Foreign Affairs, and thence, I suppose, in his dress, to Petersburg.¹⁷ Mr. Jones will give you more satisfactory information on this, as also with respect to the answer to Mr. Jay's letter.¹⁸

Your surmises relative to a revival of paper currency alarms me. It is impossible that any evil can render such an alternative eligible. It will revive the hopes of the enemy, increase the internal debility of the State, and awaken the clamors of all ranks throughout the United States against her. Much more to Virginia's honor would it be to rescind the taxes, although the consequence of that can but be of a most serious nature.

TO EDMUND RANDOLPH.

Philadelphia, May 21, 1782.

DEAR SIR,

Your favor of the 10th was received yesterday. I suspect that I have expressed myself ambiguously with respect to Mr. Jefferson. He does not allege ignorance of the report of the committee, but of the title of New York, which is the ground on which the report places the controversy with Virginia.

The final report of our suit to Congress for an answer to the Western cession was sent by the last post. Mr. Jones can explain every thing relative to it. I feel myself much disburdened by the termination of the business. If it should be revived here, in consequence of steps taken by the Legislature, I flatter myself it will be under circumstances less embarrassing.

TO EDMUND RANDOLPH.

Philadelphia, May 28, 1782.

DEAR SIR,

A letter from Dr. Franklin, of the fourth March, informs the Superintendent of Finance that the Court of France had granted an aid of six millions of livres to the United States for the present year. It appears, however, that this aid has been wholly anticipated, as well as the aids of the last year, by bills of exchange; by supplies for the army, particularly those in Holland; by the debt of Beaumarchais, amounting to two millions and a half of livres; by the

interest money; by the deduction on account of Virginia, computed at seven hundred thousand livres, &c.²⁰ The States must, therefore, by some means or other, supply the demands of Congress, or a very serious crisis must ensue. After the differences between the modes of feeding the army by contracts and by the bayonet have been experienced both by the army and the people, a recurrence to the latter cannot be too much dreaded.

The Province of Friesland has instructed its Delegates in the States General to concur in a public reception of Mr. Adams. The city of Dort has done the same to theirs in the Provincial Assembly of Holland.

The above letter came by the Alliance, which is arrived at Rhode Island. Captain Barry, I am told, says that the Marquis will come with a squadron for the American coast, which was equipping. If this be true, Barry is wrong in disclosing it. I distrust it.

A French cutter is since arrived, after a short passage, with despatches for the Minister here. He received them on Saturday by an express from Salem, and has not yet communicated their contents to Congress. I understand, through the Secretary of Foreign Affairs, that the Court of London has lately proposed to the Court of France a separate peace, as the price of which she would place Dunkirk in its former state, make some sacrifices in the East Indies, and accede to a *status quo* in the West Indies. The answer of France was dictated by her engagements with the United States.²¹ This insidious step taken at the same moment with the agency of Mr. Carleton, will, I hope, not long be withheld from the

public. We have heard nothing from this gentleman since the answer to his request of a passport for his secretary.

In order to explain our public affairs to the States, and to urge the necessity of complying with the requisitions of Congress, we have determined to depute two members to visit the Eastern States, and two the Southern. The first are Root and Montgomery; the others, Rutledge and Clymer. I put this in cypher, because secrecy has been enjoined by Congress. The deputation will probably set off in a few days.²²

I find that the Minister of France has been informed, by some correspondent in Virginia, that the late intelligence from Britain has produced very unfavorable symptoms in a large party. He seems not a little discomposed at it. The honor of the State concurred with my own persuasion in dictating a consolatory answer to him. For this reason, as well as for others, I think it would be expedient for the Legislature to enter into an unanimous declaration on this point. Other States are doing this, and such a mode of announcing the sense of the people may be regarded as more authentic than a declaration from Congress. The best form, I conceive, will be that of an instruction to the Delegates. Do not fail to supply me with accurate and full information on the whole subject of this paragraph.

A letter from Dr. Franklin, of thirtieth of March, enclosing a copy of one to him from Mr. Adams, at the Hague, was laid before Congress subsequently to writing the above. By these, it appears not only that an essay has been made on the fidelity of France

to the alliance, but that the pulse of America has been at the same time separately felt through each of those Ministers. They both speak with becoming indignation on the subject, attest the firmness of our ally, and recommend decisive efforts for expelling the enemy from our country. Mr. Adams says, 'ten or eleven cities of Holland have declared themselves in favor of American Independence, and it is expected that to-day or to-morrow this Province will take the decisive resolution of admitting me to my audience. Perhaps some of the other Provinces may delay it for three or four weeks, but the Prince has declared that he has no hopes of resisting the torrent, and, therefore, that he shall not attempt it. The Duke de la Vauguyon has acted a very friendly and honorable part in this business, without, however, doing any ministerial act in it.'²³ What was said above of Friesland came from Mr. Barclay, the Consul. Mr. Adams says nothing of that Province, although his letter is of later date.

The Secretary of War has just given notice to Congress, that the Department of Finance is unable to supply the essential means of opening the campaign. This shocks, rather than surprises, us. It will be one article in the communications of the deputies above mentioned, and adds force to the expediency of their mission.²⁴

The denial to Congress of the right of granting flags is singular indeed. May not the power of Congress to agree to a truce be contested on the same grounds? The former is a partial truce, and if the silence of the Confederation reserves it to the States, the same silence reserves the latter. Admitting that

Congress had the right of granting flags, was it not exercised to the advantage of Virginia in procuring a vent to her staple, and stopping the exportation of her specie?²⁵

TO EDMUND RANDOLPH.

Philadelphia, May 29, 1782.

DEAR SIR,

I wrote you yesterday morning by the post, fully and in cypher. As I am told, however, the bearer will probably be in Richmond before the post, it may not be amiss to repeat to you that we have heard nothing from Carleton since our refusal of the passport to his secretary, and that we have authentic information from Europe, that insidious attempts have been made both on Doctor Franklin and Mr. Adams, by British emissaries, as well as tempting overtures employed to divide our ally from us. These machinations have served no other end than to expose the meanness and impotence of our enemy, and to supply fresh proofs of the indissoluble nature of the alliance. Mr. Adams begins to advance with considerable speed towards the object of his mission in Holland.

The action in the West Indies is still wrapt up in darkness. The enclosed paper contains a specimen of the obscure and contradictory advices which have alternately excited our hopes and our apprehensions.

A copy of sundry resolutions of the House of Delegates, touching the exportation of tobacco in the flags, was laid before Congress yesterday by the

Superintendent of Finance, and referred to a committee. On a review of the doctrine of the ninth Article of Confederation, I believe, the right of the State to prohibit in the present case the exportation of her produce cannot be controverted. The States seem to have reserved at least a right to subject foreigners to the same imposts and prohibitions as their own citizens; and the citizens of Virginia are at present prohibited from such an exportation as is granted in favor of the British merchants. This is a very interesting point, and unless the division line between the authority of Congress and the States be properly ascertained, every foreign treaty may be a source of internal as well as foreign controversy. You will call to mind one now in negotiation, which may be affected by the construction of this clause in the Confederation. Congress have no authority to enter into any convention with a friendly power which would abridge such a right. They cannot have a greater authority with respect to a hostile power. On the other side, it is equally clear, that the State has no authority to grant flags for the exportation of its produce to the enemy. Armed vessels would not respect them, nor would they be more respected in the Courts of Admiralty. Unless Congress and the State, therefore, act in concert, no tobacco can be remitted to New York, and a further drain of specie must ensue. When the matter was first opened in Congress, the impression was unfavorable to the right of the States, and pretty free strictures were likely to be made on its opposition to the constitutional power of Congress. It became necessary, therefore, to recur to the law and the testimony, which produced an

acquiescence in the contrary doctrine. Their sentiments, however, with regard to the policy and consistency of the resolutions, are very different. The last resolution in particular, compared with the preliminary doctrines, produces animadversions, which I need not recite to you. There are several reasons which make me regret much this variation between Congress and Virginia, of which a material one is that a great personage will be touched by it, since it originates in his act; and, since a conference between a committee and him and the Superintendent, he concurred in the expediency of granting the passports.

TO EDMUND RANDOLPH.

Philadelphia, June 4, 1782.

DEAR SIR,

According to your request, I send an authenticated extract from the Journals of the vote of Congress on the clause which interdicts British manufactures. It has, however, been for some time in print, and will probably be at Richmond before you receive the manuscript copy. The arguments urged against the measure appear to me in the same light in which you describe them. The policy of Great Britain in the capture of St. Eustatia has been constantly reprobated by some of the wisest statesmen. But whatever her policy might at that period be, it is manifest that a very different one is now pursued. British goods are issued from the enemy's line with greater industry than they have ever been, and, as is

universally believed, with the knowledge, if not at the instigation, of those in power. Indeed, they would counteract their new system in doing otherwise. The sense of the Eastern States will appear from the ayes and noes on the question. Mr. Adams, in his last despatches, ascribes much of the late pacific symptoms in the British nation, and of the facilities which begin to attend the mission in Holland, to our proscription of the British merchandize.²⁵

You have not sufficiently designated the papers from Mr. R. Morris, from which you wish an extract. I do not recollect, nor can I find, any letter which contains a state of the finances, except his circular letters, which may be found either among the Legislative or Executive archives. If you should be disappointed in these researches, I will, on a renewal of your demands, renew my researches. My charity, I own, cannot invent an excuse for the prepense malice with which the character and services of this gentleman are murdered. I am persuaded that he accepted his office from motives which were honorable and patriotic. I have seen no proof of misfeasance. I have heard of many charges which were palpably erroneous. I have known others, somewhat suspicious, vanish on examination. Every member in Congress must be sensible of the benefit which has accrued to the public from his administration; no intelligent man out of Congress can be altogether insensible of it. The Court of France has testified its satisfaction at his appointment, which I really believe lessened its repugnance to lend us money. These considerations will make me cautious in lending an ear to the suggestions even of the impartial; to those

of known and vindictive enemies, very incredulous. The same fidelity to the public interest which obliges those who are its appointed guardians, to pursue with every rigor a perfidious or dishonest servant of the public, requires them to confront the imputations of malice against the good and faithful one. I have, in the conduct of my colleague here, a sure index of the sentiments and objects of one of my colleagues who is absent, relative to the Department of Finance.

The Chevalier de la Luzerne tells us he has written to the General on the subject of the transaction between them, and has no doubt that the difficulties which attended it will be removed.

TO EDMUND RANDOLPH.

Philadelphia, June, 1782.

DEAR SIR,

General Washington has transmitted to Congress sundry informations he has received, of preparations at New York for expediting from thence a considerable number of ships. Whether they are to convoy troops, and whither, or to bring off troops from other places, is uncertain. He has also transmitted to Congress an answer to him from General Carleton, on a demand, made at the instance of the Legislature of South Carolina, of a re-transportation of the exiles at the expense of the King of Great Britain. This demand was instituted, not executed, during the command of Clinton, from whom an imperious refusal was calculated upon. In pursuance of the views of

the new system, his successor weeps over the misfortunes of the exiles, and in the most soothing language that could be framed, engages to comply fully with the application. This incident at once mortifies our pride and summons our vigilance. We have nothing further from Carleton on the main point.²⁷

The communication, expected in my last from the Minister of France, has been received, and afforded a very seasonable occasion, which was improved, of renewing the assurances suited to the present crisis.

TO EDMUND RANDOLPH.

Philadelphia, June 6, 1782.

DEAR SIR,

Mr. Webb being detained till this morning, I enclose the gazette of it. You will find a singular extract from Lord North's budget. The speech was delivered on the eleventh of March. It must have been Mr. Ross's contract, therefore, and not Mr. Morris's, which supplied this article. I am just told that the Senate have put their veto on the resolutions of the House of Delegates against the latter. If an existing law, however, prohibits the exportation, and one branch of the Legislature protests against the authority of Congress to dispense with it, the Executive will scarcely suffer the tobacco to be exported. If this matter should terminate in an agreement by Maryland to supply the tobacco, and Virginia should be drained of her money to purchase the staple of the former, whilst her own staple is left on her hands, * * * * *. The proviso

in the resolutions in favor of the contract of the State agents, furnishes, I find, a copious topic for anti-Virginian critics. It is inconsistent with the laws of the State—with the ordinances of Congress—with the treaty with France—with gratitude to our allies—for tobacco to be shipped to New York, by Mr. Morris, for the advantage of the United States; but if the identical tobacco be shipped by Mr. Ross, for the advantage of Virginia, the inconsistency is done away in the eyes of the House of Delegates of Virginia.

TO EDMUND RANDOLPH.

Philadelphia, June 11, 1782.

DEAR SIR,

I have your favor of the first instant. I hope you have received mine, although you do not acknowledge them. My punctuality has not been intermitted more than once or twice since your departure, and in no instance for a considerable time past.

I have written so fully concerning the flags that I have nothing to add on that subject, but that I wish the Senate may, by their perseverance on this occasion, exemplify the utility of a check to the precipitate acts of a single legislature.

Having raised my curiosity by your hints as to certain manœuvres, you will not forget your responsibility to gratify it. The pleasure I feel at your being included in the commission for vindicating the claims of Virginia, is considerably impaired by my fears that it may retard your return hither.

Great as my partiality is to Mr. Jefferson, the mode in which he seems determined to revenge the wrong received from his country does not appear to me to be dictated either by philosophy or patriotism. It argues, indeed, a keen sensibility and strong consciousness of rectitude. But this sensibility ought to be as great towards the relentings as the misdoings of the Legislature, not to mention the injustice of visiting the faults of this body on their innocent constituents.

Sir Guy Carleton still remains silent. The resolutions which the Legislatures of the States are passing, may, perhaps, induce him to spare British pride the mortification of supplicating in vain the forgiveness of rebels.

Mr. Izard, warm and notorious as his predilection for the Lees is, acknowledges and laments the opposition made by them to measures adapted to the public weal.

The letter in the first page of the Gazette of this morning was written by Mr. Marbois. In an evening of promiscuous conversation I suggested to him my opinion, that the insidiousness of the British Court, and the good faith of our ally, displayed in the late abortive attempt of the former to seduce the latter, might with advantage be made known, in some form or other, to the public at large. He said he would think of the matter, and next day sent me the letter in question, with a request that I would revise and translate it for the press, the latter of which was done. I mention this that you may duly appreciate the facts and sentiments contained in this publication.²³

OFFICE OF FINANCE, Philadelphia, June 11, 1782.

SIR,

As I have ever considered it to be a most essential point to have men of approved abilities and character employed in the public offices, you will readily conceive my gratification on the receipt of your letter of the thirty-first ultimo, wherein you tell me, not only of Mr. Webb's acceptance of the appointment of Receiver of the Taxes, but also of his integrity and sufficiency. I expect that such appointments will be agreeable to the States wherein they are made, and very acceptable to Congress.

Mr. Webb has written on the same point which you mention, to which I reply by this post; and as the publications have commenced in other States on the first of June, it may be expected that they should have been general; I hope it will not be delayed longer than the first of July, and then the receipt for April, May and June, must be particularized in the manner it has been done here, where you will find them delinquents for the two past months; they do not like this appearance, and are now stimulating the tax-gatherers. New Jersey and Rhode Island are the only States that have made payments. Surely a different spirit will be roused. For Heaven's sake let us owe our freedom to ourselves! We have the means, if we dare to use them.

I am, with great esteem and respect,

Dear Sir, your obliged and obedient

Humble servant,

ROB. MORRIS.

The Hon'ble EDMUND RANDOLPH, Esq.

TO EDMUND RANDOLPH.

Philadelphia, June 18, 1782.

DEAR SIR,

I received no letter from you yesterday, nor shall I receive any for that week, unless it be through the channel of Rivington's Gazette, the post having been robbed of his mail on Saturday evening last in Maryland. I hope your letter did not contain any thing not in cypher which is unfit for the public eye. The policy, however, which seems to direct Carleton's measures, renders it probable that he will decline the mean expedient pursued on such occasions by his predecessors for giving pain to individuals. It will be proper for us to take from this accident an admonition to extend the use of our cypher.

The trade with New York begins to excite general indignation, and threatens a loss of all our hard money. The continued drains which it makes from the bank must at least contract its utility, if it produces no greater mischief to it. The Legislature of New Jersey are devising a remedy for this disgraceful and destructive traffic, and a Committee of Congress are also employed in the same work. I have little expectation that any adequate cure can be applied, whilst our foreign trade is annihilated, and the enemy in New York make it an object to keep open this illicit channel.²⁹

TO EDMUND RANDOLPH.

Philadelphia, June 25, 1782.

DEAR SIR,

Your favor of the fifteenth, being more fortunate than the preceding one, came safe to hand yesterday. The loss of the mail is the more provoking, as it is said to have contained a packet from New York, which had been intercepted on its passage to England and carried into North Carolina.

The illicit trade with the British lines has been pushed so far, under the encouragement of the enemy, as to threaten a deep wound to our finances. Congress have renewed the exhortation to the States on this subject, and recommended to the people, through them, a patriotic co-operation with the public measures. This trade, we have also discovered, is carried on with considerable effect, under collusive captures. This branch of the iniquity falls properly within the purview of Congress, and an ordinance for its excision is in the hands of a committee.

A letter from Mr. Adams, of the eleventh of April, informs his correspondent that five of the seven provinces had decided in favor of a treaty with the United States, and that the concurrence of the remaining two might be expected in a few days. A Leyden paper, of a subsequent date, reduces the exception to a single province. It would seem, from a memorial from the merchants to the States General, that this resolution had been greatly stimulated by an apprehension that a sudden pacification might exclude their commerce from some of the advan-

tages which England may obtain. The memorial appeals to the effect of the American trade on the resources of France, and to the short and indirect experience of it, which Holland enjoyed before the loss of St. Eustatia, as proof of its immense consequence. It observes, also, that the ordinance of Congress against British manufactures presented a precious crisis for introducing those of other nations; which ought to be the rather embraced, as nothing would be so likely to dispose Britain to the Independence of America and a general peace, as the prospect of her being supplanted in the commercial preference expected from the habits of her lost provinces.

The present conjecture with regard to the fleet mentioned in my late letters, is, that it conveyed a parcel of miserable refugees, who are destined to exchange the fancied confiscations of their rebellious countrymen, for a cold and barren settlement in Nova Scotia or Penobscot.

TO EDMUND RANDOLPH.

Philadelphia, July 2, 1782.

DEAR SIR,

The confidential and circumstantial communications, in your favor of the twentieth of June, have afforded me much pleasure. Those which relate to the scheme of garbling the delegation were far from surprising me. In a conversation with Mr. Jones, before he left Philadelphia, it was our joint inference, from a review of certain characters and circumstances, that such a scheme would be tried.

No addition has been made to our foreign intelligence in the course of the past week. Some of the republications from the European papers herewith sent throw light, however, on the general state of foreign affairs. Those which relate to Ireland, in particular, are very interesting. The Empress of Russia appears, by the memorial of her Ministers, to be more earnest in forwarding a reconciliation between England and Holland, than is consistent with the delicate impartiality she has professed as mediatrix, or with that regard which we flattered ourselves she felt for the interests of the United States.

One article of our late communications from France was, that the interest on the certificates is no longer to be continued, and that provision must be made within ourselves. This has caused great commotion and clamor, among that class of public creditors, against Congress, who, they believe, or affect to believe, have transferred the funds to other uses. The best salve to this irritation, if it could with truth be applied, would be a notification that all the States had granted the impost of five per cent., and that the collection and appropriation of it would immediately commence. It is easy to see that the States whose jealousy and delays withhold this resource from the United States, will soon be the object of the most bitter reproaches from the public creditors. Rhode Island and Georgia are the only States in this predicament, unless the acts of Virginia and Maryland should be vitiated by the limitations with which they are clogged.

No step has yet been taken in the instructions prepared before your departure. I expostulated a few

days ago with Dr. Witherspoon on the subject, and prevailed on him to move in the business; but his motion only proved the watchfulness and inflexibility of those who think they advance towards their own objects, in the same proportion as they recede from those of Virginia. I have since shown him the report, and he is a confirmed advocate both for the innocence and expediency of it.

We are, even at this day, without official advice of the naval event of the twelfth of April, in the West Indies; nor have we any advices of late date from that quarter. There is little room to hope that the misfortune of our ally will be repaired by any subsequent enterprises.

Congress are much perplexed by the non-appearance of Connecticut at the time appointed for the meeting of her agents and those of Pennsylvania. We wish to avoid leaving her any pretext to revive the controversy, and yet the reasons for her neglect cannot be pronounced sufficient. Her adversary professes a strong jealousy that she means, by every artifice, to parry a decision during the war; and it cannot be denied that appearances but too well authorize it.³⁰

TO EDMUND RANDOLPH.

Philadelphia, July 9, 1782.

DEAR SIR,

Your favors of the twenty-seventh were received this morning. I sincerely regret that any reports should have prevailed injurious to the patriotism of

Williamsburg, and particularly that my name should, in any manner whatever, be connected with them. I informed Mr. Jones that the Minister of France had been made somewhat uneasy by some accounts from Virginia, and desired him to enable me to remove it by proper inquiries. It must have been a very gross mistake that could have built the reports in question on this letter, even if its contents had been known. You saw, I presume, the letter. I think I wrote you a letter to the same effect, but I am not sure.

The trade with the enemy at New York has at length, I am told, produced spirited and successful exertions among the people of New Jersey for suppressing it. The same alarm and exertions seem to be taking place in Connecticut. The ordinance of Congress against collusive captures on water has not yet passed. The mode of proof, and the distribution of the effects, occasioned some diversity of opinion, and a recommitment ensued. I am not very sanguine that any thing of efficacy will be done in the matter. Notwithstanding the supposed danger arising to the Bank from the exportation of hard money to New York, a dividend of four and a half per cent. for the first half year has been advertised to the stockholders. Will not this be very captivating to the avarice of the Dutchman, in case his apprehensions shall be removed by a political connection between the two countries?

TO EDMUND RANDOLPH.

Philadelphia, July 16, 1782.

DEAR SIR,

Notwithstanding the defensive professions of the enemy, they seem to be waging an active war against the post-riders. The mail for the Eastward, on Wednesday last, shared the same fate which the Southern mail did a few weeks ago, and, it is said, from the same identical villains. This operation has withdrawn them from their Southern stand, and secured the arrival of the mail, which brings your favor of the fifth instant. I fully concur in the change of cypher which you suggest, and understand the reference for a key-word. I have been in some pain from the danger incident to the cypher we now use. The enemy, I am told, have in some instances published their intercepted cyphers. On our first meeting, I propose to prepare, against another separation, a cypher framed by Mr. Livingston on a more enlarged and complicated plan than ours, of which he has furnished me several blank printed copies.

Your computation of the numbers in Virginia tallies exactly with one transmitted by Mr. Jefferson, in an answer to several queries from Mr. Marbois. It is as accurate as the official returns to the Executive of the Militia would admit. His proportion of the fencibles to the whole number of souls is stated precisely as your computation states it.

You will continue your information on the case of the flag, and send me the acts of the Legislature as fast as they are printed. Will you be so good, also, as to obtain from the Auditors a state of the balance

due on the principles established by law, and let me know when and how it is to be applied for?—as also what chance there is of obtaining a regular remittance of future allowance?

General Washington and Count Rochambeau met here on Saturday evening. The object of their consultation is among the arcana of war.

A despatch from the Commander-in-Chief communicated to Congress yesterday a late correspondence between him and General Carleton, principally on the subject of two traitors, who, under cover of a flag, have exposed themselves to arrest in New Jersey, and had sentence of death passed upon them. General Carleton, among other observations on the subject, says that, "In a civil war, between people of one Empire, there can, during the contest, be no treason at all,"—and asks a passport for General Robinson and Mr. Ludlow to confer with General Washington, or persons appointed by him, and to settle arrangements on this idea. General Washington declines the conference, observing, that the proposed subject of it is within civil resort. Whereupon General Carleton asks—"Am I to apply to Congress to admit persons to conferences at Philadelphia? Can any deputation be sent by Congress to your camp to meet persons appointed by me? Or will you, sir, undertake to manage our common interest?" The drift of all this need not be pointed out to you. As a counterpart to it, the British General proposes, in order to remove all objection to an exchange of soldiers for seamen, that the latter shall be perfectly free, and the former subject to the condition of not serving *against the thirteen Provinces* for one year,

within which period he is very sanguine that an end will be put to the calamities of the present war.

The same despatch informs Congress that a party of the enemy have lately made a successful incursion upon the settlements of Mohawk, have re-occupied Oswego, and are extending themselves into the Western country. However little these movements may coincide with a defensive plan, they coincide perfectly with ideas which will not fail to be urged at a pacification.⁵¹

Messrs. Montgomery and Root returned yesterday from their Eastern deputation. They have not yet made their report. The former complains that several of the States are appropriating the taxes, which they lay as their quota of the eight millions, to internal uses. He owns that the knowledge he has obtained of the case changed his mind on that head, and that if the ground was to be trodden over again, he should take a very different part in Congress. He adds, that the current opinion is, that a vessel arrived at Quebec brings a Royal Charter for Vermont; that the people there are in much confusion, and many of them disposed to re-unite with New Hampshire. A letter to Mr. Livingston, from Mr. Livermore, corroborates this good news. It imports that a very unexpected turn had taken place in the temper of the people, between the river and the ridge; that they were petitioning New Hampshire to be restored to that State, and that measures would be taken in concert with New York for that purpose. The revolution in the sentiments of Montgomery may be owing, in part, to the new relation in which Pennsylvania stands to Connecticut, which, he says,

is governed on this occasion by interested individuals. The controversy between Pennsylvania and Connecticut will, I suppose, be now resumed, and put into a course for decision, the return of Mr. Root having removed the cause which suspended it.³²

In the beginning of this month, committees were appointed, in pursuance of a previous resolution for such an appointment every half-year, to examine into the proceedings of the several Executive Departments, and make report to Congress. This plan was adopted not only to discharge the general duty of Congress, and to satisfy their constituents, but also that such reports might shelter, in some degree, faithful officers from unmerited imputations and suspicions, as well as expose to just censure those of an opposite character. For reasons which will occur to you 2. 22. 15. 12. 12. 16. 19. 17. 17. 15. 25. 18. 24. 6. 12. 7. 21. 5. 7. the Department of Finance. The 2. 22. 15. 12. 12. 6. is endeavoring, I am told, contrary to the object in view, to go into an investigation of the 1. 22. 26. 12. 14. 26. 10. 5. 11. 6. 12. 27. 3. 20. 1. 3. allowed by Congress.

All the movements of 2. 23. 15. 12. 12. 6. are pointed, directly or circuitously, either to 11. 22. 3. 1. 16. 13. 26. 18. 10. 25. 12. 18. 24. 1. 11. This cypher, I find, is extremely tedious, and liable to errors.³³

General Carleton, in his letter to General Washington above quoted, says, with respect to Lippencot only, that the court had passed their judgment, and that as soon as the length of the proceedings would admit, a copy should be sent to him. It is inferred that this murderer will not be given up, and consequently a vicarious atonement must be made by the guiltless Asgill.

TO EDMUND RANDOLPH.

Philadelphia, July 23, 1782.

DEAR SIR,

I have at length the pleasure of presenting you with certain, though not official, intelligence of the recognition of our Independence by the States General. This event, with other interesting particulars, is contained in the enclosed gazettes. Among its salutary consequences to this country, I hope the people of Virginia will not be inattentive to its influence on the value of its staple, on which it is very probable speculations will be attempted.

The language and measures of the present Administration will furnish you with copious matter for reflection. If we had received fewer lessons of caution against sanguine expectations, I should, with confidence, explain them by a scheme for a general pacification, and for fathering on their predecessors all the obnoxious conditions which the public distresses may expose them to. If this solution were a just one, it ought, at the same time, to be remembered that the triumph of Rodney may give a new turn to their politics. It appears, from the paper from which the enclosed intelligence is republished, that this event had reached London; that it was received with great rejoicings; but that the public were still haunted with fears for Jamaica. Other articles, not included in the paper herewith sent, are the capture of one, if not two, French seventy-fours, with a number of transports for the East Indies, by Admiral Barrington; the capture of a British frigate, with some transports, by a Dutch ship of war; the

capture of the valuable Island of Ceylon, from the Dutch, by Admiral Hughes; and of Negapatam, another of their important possessions, on the coast of Coromandel, with two ships, richly freighted with spices and other oriental productions. Ireland is likely to be indulged in every thing. In addition to a free trade and a free legislation, they have obtained the assent of the Lord Lieutenant to an Act of Parliament for emancipating the Catholics from their shackles on their religious rights, and on their tenures of real property. Your philanthropy will be gratified by my adding, as other proofs of the progress of light and freedom, the abolition of the inquisitorial jurisdiction in Sicily—the only part of the Neapolitan dominions where it was in force,—and the inefficiency of the Pope's visit to Vienna in checking the liberal innovations of the Emperor in his ecclesiastical polity.³¹

The news from Holland has much emboldened the
 3. 21. 12. 25. 6. 3. 17. 22. 18. 25. 15. 26. 21. 15. 24.
 2. 13. 10. 5. 7. 15. 10. 12. 17. 23. 2. 1. 19. 13. 10. 2. 2.
 that it might be considered as the 3. 23. 22. 15. 27.
 12. 4. 22. 6. 10. 2. 11. 8. 26. 22. 6. 14. 8. 5. 1. 12. 12.
 Yesterday I was reminded 27. 5. 21. 18. 23. 26. 25.
 16. that 4. 25. 13. 6. 8. 10. 16. 26. 15. 25. 17. 16. 26.
 12. 2. 16. 12. 4. 12. 2. 2. in restoring the 27. 8. 15. 3.
 9. 26. 21. 16. 11. 17. 18. 15. 17. 22. 15. 13. 3. 26.
 Soon 26. 13. 5. 24. 15. 7. 3. 13. 11. 16. 6. 12. 8. 6. 26.
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 14. 5. 27. 2. commission and 7. 21. 4. 12. 15. 19. 10.
 5. 1. 12. 12. 26. 18. 7. 15. 14. 12. 13. 22. 2. The plan
 is to 3. 4. 15. 4. 18. 2. 12. 18.—6.—24—7—5—12—

12—12 with 2. 25. 13. 15. the others from the 2. 16. 3. 24. 27. 18. 16. 27. 6. 12. 4. 13. 20. 12. 10. 17. The 12. 22. 5. 24. 16. of 11—26. 13. 10. 2. 26. 19. 4. 7. to be 26. 27. 5. 20. 27. 9. 12. 16. These and some other 17. 5. 25. 8. 17. 13. 20. 4. strongly 14. 22. 3. 12. 2. 12. 11. 13. 10. 2. 20. 16. 7. 20. 9. of 14. 8. 3. 12. 23. 15. 17. 20. 17. 17. I earnestly wish we had 23. 22. 6. 10. 25. 7. 11. in 16. 12. 1. 10. 2. 17. 26. 21. 6. 4. 18. 15. 17. 5.

General Washington is still here. I have nothing to add to my last on the subject of Lippencot and Asgill.

TO EDMUND RANDOLPH.

Philadelphia, July 30, 1782.

DEAR SIR,

I was not mistaken in my 7. 21. 5. 1. 10. 26. 27. 21. 7. 11. 18. 15. 13. 12. 25. 12. 8. 5. 12. 25. 1. 18. 10. 11. 14. 24. 10. 26. 11. 17. 7. the 10. 8. 4. 12. 27. 13. 20. 25. 1. 16. 17. 16. 27. 6. and 7. 21. 4. 12. 15. 19. 10. 5. 1. 12. 12. 26. relative to 14. 12. 13. 22. 2. 13. 21. 8. 24. 1. 12. 12. 4. 23. 25. 23. last the 11. 22. 5. 1. 12. 12. 3. 13. 11. 10. 26. 11. 17. 21. 22. 11. 25. 24. 24. 2. and 17. 12. 15. 7. 11. 2. 12. 16. by 27. 19. 13. 6. 1. at 4. 16. 3. 11. 17. 27. 1. 5. afterwards 27. 5. 13. 5. 2. 11. 9. 17. 10. 3. 16. 22. 25. 5. 25. 17: the 16. 1. 24. 24. 3. 13. 25. 3. 24. 27. 13. 21. 4. 1. 1.—12. so requiring. Not a word 21. 8. 4. 11. 25. 7. 11. against 18. 15. 17. underscored in the third line. The arguments on the other point were drawn from a source which need not be pointed out to you. An 26. 11. 22. 7.

18. 16. 21. 25. 24. 11. 18. 8. 3. 10. 2. 17. 27. 17. 23. 17. 6. 12. 16. 24. 26. 26. 26. 27. 17. An intended 16. 12. 26. 24. 20. 26. 19. 8. 20. 16. 26. 21. 26. 7. 18. 12. 10. 17. 23. 26. 19. 27. 20. 20. 16. 12. 22. 5. 17. 2. 18. 27. 13. 3. 2. 12. 23. 24. 20. 27. 3.

I have found means hitherto of parrying the 26. 27. 5. 20. 27. 9. 22. 26. the 12. 22. 5. 24. 16. 13. 13. 25. 7. 15. 16. 16. 4. My 1. 22. 24. 4. 2. 26. 14. 6. 24. 16. 6. 8. 7. 24. 15. 3. 23. 17. 20. 17. 3. 11. 24. 17. pressed the necessity of an 26. 10. 5. 7. 3. 1. 22. 26. 26. 15. 3. 26. 4. for 16. 8. 5. 1. 3. 23. 16. 26. 26. 17. 6. 12. 15. 7. 11. 20. 12. 26. 12. 6. 13. 21. on that subject, be 18. 3. 17. 24. 11. him and the 26. 26. 4. 24. 10. 27. 19. 10. os. 18. 12. 26. 11. 6. 27. 19. 10. 25. but 16. 12. 13. 4. 9. 23. to bring the 17. 1. 14. 2. 2. 1. 27. 14. 24. 3. 13. 25. 17. 22. 12. 12. 14. 3. 24. 16. 17. At present 27. 19. 13. 6. 1. 17. 12. 17. 5. 16. to decline the object, as having an 7. 19. 24. 12. 2. 12. 11. 17. 6. 27. 23.

All the movements of 2. 23. 15. 12. 12. 6. are pointed, directly or circuitously, either to 11. 22. 3. 1. 16. 13. 26. 18. 10. 25. 12. 18. 24. 1. 11. This cypher, I find, is extremely tedious, and liable to errors.

General Carleton, in his letter to General Washington, above quoted, says, with respect to Lippen-cot only, that the court had passed their judgment, and that as soon as the length of the proceedings would admit, a copy should be sent to him. It is inferred that this murderer will not be given up, and consequently a vicarious atonement must be made by the guiltless Asgill.*

* The key to the cypher used in the above and two preceding letters could not be found.—EDITOR.

TO EDMUND RANDOLPH.

Philadelphia, August 9, 1782.

DEAR SIR,

Extract of a letter from Carleton and Digby to General Washington, August the second: "We are acquainted, sir, by authority, that negotiations for a general peace have already commenced at Paris, and that Mr. Grenville is invested with full powers to treat with all parties at war, and is now at Paris in execution of his commission. And we are likewise, sir, further made acquainted, that His Majesty, in order to remove all obstacles to that peace which he so ardently wishes to restore, has commanded his ministers to direct Mr. Grenville that the independency of the Thirteen Provinces should be proposed by him, instead of making it a condition of a general treaty; however, not without the highest confidence that the loyalists shall be restored to their possessions, or a full compensation made them for whatever confiscations may have taken place."

This is followed by information that transports are preparing to convey all American prisoners in England to the United States, and a proposition for a general exchange, in which seamen are to be placed against seamen as far as they will go, and the balance in favor of Great Britain to be redeemed by land prisoners—the former to be free, the latter not to serve in war against the Thirteen Provinces for one year. An embarkation is taking place at New York for Charleston, either to reinforce that garrison or replace it.³⁵

The preceding letter was published in New York, at the same time it was sent to General Washington. I commit this intelligence to your discretion, making no other remark than that it clearly calls for our watchfulness, at the same time that it flatters our expectations.

TO EDMUND RANDOLPH.

Philadelphia, August 13, 1782.

DEAR SIR,

I transmitted to you, a few days ago, by express, the contents of a letter from General Carleton and Admiral Digby to General Washington, announcing the purpose of the British Court to acknowledge the independence of the Thirteen Provinces. Our expected advices on this head from Europe are not yet arrived. A Mr. Blake, an opulent citizen of South Carolina, who came from Great Britain under a passport from Mr. Laurens to New York, and thence hither, assures us that the Administration are serious with respect to peace and the independence of this country; that the point, however, was carried in the Cabinet by a majority of two voices only; that their finances are so disordered that a continuance of the war is in a manner impracticable; that the militia at New York have been thanked for their past services, and told explicitly that they would not be wanted in future; that the evacuation of the United States will certainly take place this fall, and that a large number of transports are coming from England to remove the British garrisons, probably to the West

Indies; that these transports will contain about two thousand five hundred Germans, who, it is supposed, in case of such an evacuation, will have the same destination; that Carleton told him, and desired him to mention it at large, that he was a real friend to America, and wished her to be powerful, rich, united, and happy, and secure against *all* her enemies; that he also intimated, in the course of conversation, that Canada would probably be given up as a fourteenth member of the Confederacy. You will draw such conclusions from these particulars as you think fit. The gentlemen of South Carolina vouch for the veracity of Mr. Blake. It appears to me much more clear that the Ministry really mean to subscribe to our independence, than that they have renounced the hope of seducing us from the French connection.

The motion for revoking the power given to France has been made again, and pushed with the expected earnestness, but was parried, and will issue, I believe, in an adoption of your report with a representation thereupon to the Court of France.

Among other means of revenue, the back lands have on several late occasions been referred to, and at length recommended by a Grand Committee to the consideration of Congress. A motion for assigning a day to take up the report was negatived by a small majority. The report has been repeated by the committee, but a second experiment has not been made in Congress. Several of the Middle States seem to be facing about. Maryland, however, preserves its wonted jealousy and obstinacy.

In compiling the evidence of our title, I suppose you will, of course, be furnished with all Mr. Jeffer-

son's lights. I have lately seen a fact stated by him, which shows clearly the ideas entertained by Virginia with respect to her territorial limits subsequent to the resumption of the charter. In a convention between commissioners on the part of the Commonwealth of England, and of the Grand Assembly of Virginia in 1651, by which the latter submit to the new government, it is stipulated that Virginia shall enjoy the ancient bounds and limits granted by the charters of the former Kings, and that a new charter shall be issued from the Parliament against any that shall have entrenched upon the rights thereof.³⁶

TO EDMUND RANDOLPH.

Philadelphia, August 20, 1782.

DEAR SIR,

In my last I informed you that the motion to rescind the control given to France over the American Ministers had been parried, and would probably end in an adoption of your report. It was parried by a substitute so expressed as to give a committee sufficient latitude in reporting, without implying on the part of Congress a design to alter past instructions. The composition of the committee appointed according well with the object of the substitute, a report was made that the expository report should be referred to the Secretary of Foreign Affairs, to be by him revised and transmitted to the Ministers in Europe, and that the latter should communicate so much thereof as they might judge fit to His Most Christian Majesty, representing to him, &c.

In this train the business was going on smoothly, each of the opposite parties seeming to concur from a fear of something more distant from their wishes, when

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TO EDMUND RANDOLPH.

Philadelphia, August 27, 1782.

DEAR SIR,

Your favor of the sixteenth came duly to hand yesterday. The hints which it gives with regard to merchandizes imported in returning flags, and the intrusion of obnoxious aliens through other States, merit attention. The latter subject has, on several occasions, been mentioned in Congress, but, I believe, no committee has ever reported a remedy for the abuse. A uniform rule of naturalization ought certainly to be recommended to the States. Their individual authority seems, if properly exerted, to be competent to the case of their own citizens.

The report touching the unpopularity of 554. 308. was perfectly new to me. It may, nevertheless, be true. The letter received yesterday from the Governor is silent as to the appointment of Commissioners to treat with the Southern Indians.

We are still left without information concerning negotiations in Europe. So long a silence of our Ministers, at so interesting a crisis, grows equally distressing and inexplicable. The French fleet has gone into Boston harbour. The arrival of a British fleet on this coast is reported, but disbelieved by

many. The French army is on its way northward from Baltimore. It is to proceed in five divisions, the first of which is to be here about Friday next.

Congress received yesterday a letter from General Washington, enclosing one to him from Carleton, with the proceedings of the court-martial in the case of Lippencot. It appears that this culprit did not deny the fact charged upon him, but undertook to justify it as a necessary retaliation, and as warranted by *verbal* orders from the Board of Refugees. The court decided this warrant to be insufficient, but acquitted him on the pretext that no *malicious* intention appeared. Carleton explicitly acknowledges and reprobates the crime, and promises to pursue it in other modes; complaining, at the same time, of irregularity in the step taken by General Washington of selecting and devoting to execution an innocent, and even capitulant, officer, before satisfaction had been formally demanded and *refused*. General Washington seems to lean to the side of compassion, but asks the direction of Congress. What that will be, may, perhaps, be communicated in my next.

The consideration of your territorial report has been resumed. The expedient which was meant to conciliate both sides proved, as often happens, a means of widening the breach. The jealousies announced on the side mentioned in my last were answered with reciprocal jealousies from the other, and the report between the two was falling to the ground, when a commitment, as a lesser evil, was proposed and agreed to.

Mr. Jones and his family arrived on Sunday at Germantown, without halting in this city. Himself,

his lady, and little son, were all extremely sick during the whole journey. Mrs. Jones is still very much indisposed, and Mr. Jones considerably so. They do not propose to come into the city till the salubrity of Germantown shall have enabled them to encounter its noise and polluted atmosphere.

I cannot, in any way, make you more sensible of the importance of your kind attention to pecuniary remittances for me, than by informing you that I have for some time past been a pensioner on the favor of Hayne Solomon, a Jew broker. Will not the agent of Mr. Morris give a draft, payable to me, for notes payable to the bearer? Or may not the notes be so endorsed as, in case of accident, to prevent payment to another? In either of those cases, a remittance of notes (if they can be procured for me) by the post will be safe. But my present situation renders such a conveyance preferable to delay, even if neither of the foregoing expedients be practicable. Show this paragraph to Mr. Ambler, if you please.

TO EDMUND RANDOLPH.

Philadelphia, September 3, 1782.

DEAR SIR,

You will again be disappointed at the opening of this, since it contains no European intelligence on the subject of peace. Among other reasons which render it astonishing that we should be long uninformed, a material one is, that neither the Court of France, nor our Ministers, can be insensible of the

inexpediency of leaving the people at large so much exposed to misrepresentations of the enemy. I am happy to find, by your letter of the twenty-fourth, and those received from my other correspondents by yesterday's post, that so cautious an ear is given to every thing which comes from them of a flattering aspect.

The enclosed hand-bill, published a few days ago, will inform you of the steps taken at Charleston towards an evacuation of that place. It is said to have given fresh violence to the fermentations in New York.

Another petition from Kentucky has been received by Congress, contending for the right of Congress to create new States, and praying for an exertion of it in their behalf. A copy will be sent to the Governor by the Delegates. Mr. Lee moved that the original should be referred to him by Congress. The debate which ensued was terminated by an adjournment, and has not been revived.

General Washington writes to Congress that Carleton had concurred in the proposition for a general cartel so far as to appoint a Commissioner for that purpose. There is little probability, however, that he has authority to settle such a cartel on the principles which Congress had in view, namely, those of a National Convention. It was thought, by some, that this would put to the test the sincerity of their professions on the subject of independence.

I believe I did not acquaint you, on a former occasion, that the prisoners who had lately returned from captivity in England were discharged, in consequence of an agreement, by Franklin, that a like

number of the army of Cornwallis should be given for them. This bold step at first gave much offence. Compassion, however, for the patriotic captive stifled reproaches. They will probably come out yet, unless subsequent events discountenance them.

There are, it seems, three letters in the post-office from Carleton to the Governor, which do not appear to have been licensed, nor is it known how they got into that channel. The curiosity of people on this point is inconceivable.

A very unlucky accident has happened to one of the fleet of our Allies. After it got safe into the harbour of Boston, the unskilfulness or negligence of a pilot suffered a seventy-four to strike on a rock, the wound occasioned by which proved mortal. Most of the furniture has been saved.

I have not yet presented the note to Cohen which you have been so good as to enclose me. The general obstacle to advances here, to be replaced in Virginia, has been the balance in trade against the latter. This is the current answer to attempts to negotiate drafts on Virginia. My next will inform you of the result of the experiment of your note. If its success depends merely on a confidence in your credit, it will certainly be productive. Mr. Ross has unlimited credit in this place. May it not be made instrumental to our supply? At least it would be well to consult him when an occasion presents. His bills on Whiteside will command any sum that may be wanted.

The French army has been passing through this place for several days northward. The last division will pass to-morrow or the day after. The

praises bestowed on their discipline and sobriety in Virginia are repeated here with equal cordiality and justice.

TO EDMUND RANDOLPH.

Philadelphia, September 10, 1782.

DEAR SIR,

The loss of the French seventy-four in Boston harbour presented an occasion, which was embraced by Congress, of making a small requital to their Ally for his benevolent exertions in behalf of the United States. They have directed the Agent of Marine to replace the loss by presenting, in the name of the United States, the ship *America* to the Chevalier de la Luzerne, for the service of His Most Christian Majesty. The *States* were unanimous in this vote. The dissenting members were Bland and Jones, of Virginia.

The report of the Grand Committee, "that the Western lands, if ceded to the United States, would be an important fund," &c., was the subject of the deliberations of Congress on Thursday and Friday last. After the usual discussion of the question of right, and a proposal of opposite amendments to make the report favor the opposite sides, a turn was given to the debate to the question of expediency, in which it became pretty evident to all parties, that unless a compromise took place, no advantage could ever be derived to the United States, even if their right were ever so valid. The number of States interested in the opposite doctrine rendered it impossible for the title of the United States ever to obtain a vote

of Congress in its favor, much less any coercive measures to render the title of any fiscal importance; whilst the individual States, having both the will and the means to avail themselves of their pretensions, might open their land offices, issue their patents, and, if necessary, protect the execution of their plans; without any other molestation than the clamors of individuals within and without the doors of Congress. This view of this case had a manifest effect on the most temperate advocates of the Federal title. Witherspoon moved a set of resolutions recommending to the States which had made no cessions to take up the subject; and to the States whose cessions were not entirely conformable to the plan of Congress, to reconsider their acts; and declaring, that in case of a compliance of the several States claiming the back lands, none of their *determinations* with regard to private property within their cessions shall be *reversed or altered* without their consent, except in cases falling within the ninth Article of the Confederation. On this motion the report was postponed, and these resolutions committed. The report of the committee on the last article will probably determine the ultimate sense of Congress on the pretensions of the companies.

Every review I take of the Western territory produces fresh conviction, that it is the true policy of Virginia, as well as of the United States, to bring the dispute to a friendly compromise. A separate government cannot be distant, and will be an insuperable barrier to subsequent profits. If, therefore, the decision of the State on the claims of companies can be saved, I hope her other conditions will be relaxed.³⁷

TO EDMUND RANDOLPH.

Philadelphia, September 11, 1782.

DEAR SIR,

By a gentleman who sets off in a few minutes, I send the paper of this morning containing the British King's speech at the prorogation of the Parliament. A vessel which left the Texel on the twenty-eighth of July is in the river. She brings despatches, and a valuable cargo of goods for the army. The despatches will be read to-day in Congress. The captain who brings them up relates that the Quebec fleet was certainly taken; that the combined fleets were in pursuit of another large fleet supposed to be destined for America; that the Dutch fleet, of twenty-two sail, had departed from the Texel on a cruise in the North Seas; that the British fleet under Lord Howe, in the channel, was shut up in port; that the news from the East Indies had been contradicted; that the late revolution in the British administration had put an end to all discourse about peace; that Mr. Adams was at the Hague, and had never been to Paris. I regret that I am obliged to substitute the oral accounts of the captain for the authentic accounts he brings from Mr. Adams. My next will be more satisfactory.

TO EDMUND RANDOLPH.

Philadelphia, September 11, 1782.

DEAR SIR,

The gentleman by whom I wrote this morning having waited till I had the opportunity of knowing

the contents of the despatches from Holland, I take advantage of it to add that we are disappointed by their silence with regard to peace. Those from Mr. Adams relate chiefly to his transactions with the States General. A letter from Mr. Laurens, of the thirtieth of May, informs us that he is returning to the United States, having declined the service of Minister for peace. There is an uninteresting part of a letter from Mr. Dana, the first pages of it having been omitted. Mr. Berkley writes, on the thirteenth of July, that the mail from England, subsequent to the resignation of Fox, Burke, &c., breathes war. He confirms the success of the combined fleets against the Quebec, &c., and the sailing of a fleet from the Texel, consisting of eleven sail of the line, five or six frigates, &c., to cruise in the North Seas, and the retreat of Admiral Howe into port. A New York paper of the seventh contains a very interesting conversation on the — July, in the House of Lords, between Shelburne and the Duke of Richmond, on the subject of ministerial politics, in which the latter assigns his reasons for not following the example of Fox, &c., and both their sentiments with respect to American Independence. The Duke of Richmond seems tolerably well reconciled to it, but Shelburne speaks out his antipathy without depriving himself of the plea of necessity. He professes to adhere, however, to the principles which the Administration carried into office relative to the war against America. I have written this in extreme haste; you will be very sensible of it by its incorrectness.

TO EDMUND RANDOLPH.

Philadelphia, September 17, 1782.

DEAR SIR,

My letters, by a private hand, subsequent to the last post, have anticipated the chief intelligence from Holland, which I had allotted for the post of this week. I have, however, one important article, which at that date lay under an injunction of secrecy, which has been since taken off. Mr. Adams, we are informed, has contracted with a mercantile house in Holland for the negotiation of a loan of five millions of guilders, or about ten millions of livres, for which he is to give five per cent. interest, and four and a half per cent. for commission and other douceurs and charges, which will raise the interest to about six per cent. The principal is to be discharged in five annual payments, commencing with the tenth year from the date of the loan. When the despatches left Holland, upwards of a million and a half of guilders had been subscribed, and upwards of one million actually received. The contractors, however, make it a condition that none of the money should be paid to the United States until the contract should be ratified by Congress. This ratification passed on Saturday, and its arrival in Holland will place under the orders of Mr. Morris the money which shall then have been procured. How far the amount will, by that time, have been augmented, is uncertain. The contractors seemed to be tolerably sanguine, but not absolutely sure, of getting the whole sum. The partial subscription

already secured is a most seasonable relief to the Department of Finance, which was struggling under the most critical difficulties.

In addition to the preceding fund, Congress have been led, by a despair of supplies from the States, to sue for a further loan of four millions of dollars for the service of the ensuing, and the deficiencies of the present, year. This demand will be addressed, in the first instance, to the Court of France. In case of miscarriage there, an experiment will be made on the liberality of our new friends.

The Legislature of Rhode Island has broke up without according to the impost of five per cent. Congress have apportioned one million two hundred thousand dollars on the States, for the payment of interest to the public creditors. Virginia is rated somewhat lower in this requisition than in the last; not, however, without complaints from some quarters. On these subjects you will have full information from Mr. Lee, who will set off in a few days, he says, for Virginia, in order to be at the October Session.

I should have told you that some progress had been made by Mr. Adams in the Treaty of Amity and Commerce with their High Mightinesses. His propositions, with the remarks and amendments of the College of Admiralty, had been taken *ad referendum*. It is somewhat extraordinary that he should omit to send us a copy of those propositions and remarks. He had taken no steps towards a Treaty of Alliance.

The debates and explanations produced by the resignation of Mr. Fox and his adherents, have

unveiled some of the arcana of the British Cabinet. I enclose them for you complete, as far as they have been published here. If there be any sincerity in the party remaining in office, it would seem that the war is not to be pursued against the United States, nor the independence suffered to be a bar to peace. We shall be able to judge better of this sincerity when the proceedings of Mr. Grenville come to our knowledge.

Mr. Cohen has advanced me fifty pounds of this currency, which, he says, is the utmost that his engagements, and the scarcity of money, will permit. I have given him an order on you for that sum, in favor of his partner at Richmond.

September 17.

On Friday two large French frigates, bringing money, &c. for the French army, and despatches for Congress and the French Minister, came into Delaware Bay. For want of pilots in time, they got entangled among the bars which perplex the navigation of this Bay. The appearance and bearing of the British fleet, after pilots were obtained, rendered it impossible for them to return into the proper channel. The only expedient that remained was to push forward and attempt, under the advantage of high water, to force a passage through the shoal which obstructed them. In this attempt, one of them succeeded. The other stuck in the sand, and was lost. All the public stores, particularly the money on board, have, however, been fortunately saved. The captain and crew, we fear, have fallen into the hands of the enemy. The ship,

it is supposed, cannot be raised by them, having been scuttled before they took possession of her. The frigate which escaped is up at Chester. We expect the despatches will be here to-day. The Marquis Viominil, and twenty or thirty other French officers, have returned in these ships.

TO EDMUND RANDOLPH.

Philadelphia, September 24, 1782.

DEAR SIR,

The substance of the despatches brought by the French frigates, mentioned in my last, is, that Mr. Oswald first, and afterwards Mr. Grenville, had been deputed to Versailles on a pacific mission; that the latter was still (twenty-ninth of June) at Versailles; that his proposals, as to the point of independence, were at first equivocal, but at length more explicit; that he associated with the preliminary that the treaty of Paris, of 1763, should be the basis of the treaty in question; that as to this proposition he was answered, that as far as the treaty of '63 might be convenient for opening and facilitating a pacification, it would be admitted as a basis, but that it could not be admitted in any sense that should preclude His Most Christian Majesty from demanding such equitable arrangements as circumstances might warrant, and particularly in the East Indies and on the coast of Africa;* that upon these grounds there was at first a prospect that negotiations would be

* Marbois, in an anticipation of the communications to be made by the Minister of France, added, "on the Coast of Newfoundland." In the communications it was omitted.

opened with mutual sincerity, and be conducted to a speedy and happy issue ; but that the success of the British navy in the West Indies had checked the ardor of the Ministry for peace, and that it was pretty evident they meant to spin out the negotiation till the event of the campaign should be decided. You will take notice that this is a recital from memory, and not a transcript of the intelligence.

The frigate *L'Aigle*, whose fate was not completely determined at the date of my last, we hear, has been raised by the enemy, and carried to New York. Captain De la Touche and the crew were made prisoners. Besides merchandize to a great value, nearly fifty thousand dollars were lost, most of which fell into the hands of the captors. The loss of this ship is to be the more regretted, as it appears that the two were particularly constructed, and destined for the protection of the trade of this country.

Our Ally has added another important link to the chain of benefits by which this country is bound to France. He has remitted to us all the interest which he has paid for us, or was due to him on loans to us, together with all the charges attending the Holland loan ; and has, moreover, postponed the demand of the principal till one year after the war, and agreed to receive it then in twelve successive annual payments. These concessions amount to a very considerable reduction of the liquidated debt. The fresh and large demand which we are about to make on him, will, I fear, be thought an unfit return for such favors. It could not, however, be avoided. The arrears to the army in January next will be upwards of six millions of dollars. Taxes cannot be relied on. With-

out money, there is some reason to surmise that it may be as difficult to disband an army as it has been to raise an army.

My last informed you that Mr. Laurens had declined serving in the commission for peace. His proceedings, during his captivity, as stated by himself, are far from unexceptionable. Congress, nevertheless, were prevailed on to assent to a resolution informing him that his services could not be dispensed with. A few days after this resolution had passed, several numbers of the Parliamentary Register were received at the Office of Foreign Affairs, in one of which was published the enclosed petition. The petition was introduced by Mr. Burke, was a subject of some debate, and finally ordered to lie on the table. The extreme impropriety of a Representative of the United States addressing that very authority against which they had made war, in the language of the address, determined Mr. Jones and myself to move that the resolution above referred to should not be transmitted until the further order of Congress. In support of the motion it was observed, that however venial the fault might be in a private view, it evidently rendered Mr. Laurens no longer a fit depository for the public dignity and rights, which he had so far degraded; and that if Congress should reinstate him against his own desire, and with this fact before their eyes, it would seem as if they meant to ratify, instead of disowning, the degradation. The motion was opposed on two grounds—first, that the character of Mr. Laurens, and the silence of his letter, overbalanced the testimony of the Register, and rendered the fact incredible; secondly, that the fact,

although faulty, ought to have no influence on the public arrangements. The first objection was the prevailing one. The second was abetted by but few. Several professed a readiness to renounce their friend, in case the authenticity of the paper should be verified. On the question there were five noes, three ayes, two divided, two half votes aye. The petition had been published some time ago at New York, and had made some noise in New Jersey, but was ultimately regarded as spurious. There are so many circumstances relating to this gentleman during his captivity, which speak a bias towards the British nation, and an undue cordiality with its new leaders, that I dread his participation in the work of peace.

Your favor of the seventh, which had not arrived last post-day, came a few days afterwards, the post having been detained by sickness. The subsequent one came to hand yesterday in due time. The expedient of drawing bills here on funds in Virginia, even the most unquestionable, has been often tried by us, but in vain. The balance is so much against Virginia that no one wants money there, and the evil will increase as the prospect of peace retires. Your credit with Mr. Cohen, which procured me fifty pounds, with two hundred dollars transmitted by Mr. Ambler, have been of much service to me, but I am relapsing fast into distress. The case of my brethren is equally alarming.

As some of Mr. Laurens's friends strenuously maintain that the petition enclosed is spurious, I would not wish it to be made public through me until the matter be ascertained, or he be present to explain it.³⁹

*To the Right Honorable Charles Wolfran Cornwall,
Speaker, and the Honorable the House of Com-
mons :*

The representation and prayer of Henry Laurens, a native of South Carolina, some time recognized by the British commissioners in America, by the style and title of His Excellency Henry Laurens, President of Congress, now a close prisoner in the Tower of London, most respectfully sheweth :

That your representer, for many years, at the peril of his life and fortune, evidently labored to preserve and strengthen the ancient friendship between Great Britain and the Colonies; and that in no instance he ever excited, on either side, the dissensions which separated them.

That the commencement of the present war was a subject of great grief to him, insomuch as he foresaw and foretold, in letters now extant, the distresses which both countries experience at this day.

That in the rise and progress of the war he extended every act of kindness in his power to persons called loyalists and quietists, as well as to British prisoners of war; very ample proofs of which he can produce.

That he was captured on the American coast, first landed upon American ground, where he saw exchanges of British and American prisoners in a course of negotiation; and that such exchanges and enlargements upon parole are mutually and daily practised in America.

That he was committed to the Tower of London on the sixth of October, 1780, being then danger-

ously ill; that in the mean time he has, in many respects, particularly by being deprived (with very little exception) of the visits and consolations of his children, and other relations and friends, suffered under a degree of rigor almost, if not altogether, unexampled in modern British history.

That from long confinement, and the want of proper exercise, and other obvious causes, his bodily health is greatly impaired, and that he is now in a languishing state; and,

Therefore, your representer humbly prays your Honors will condescend to take his case into consideration, and, under proper conditions and restrictions, grant him enlargement, or such other relief as to the wisdom and benignity of your Honors shall seem fitting.

HENRY LAURENS.*

TO EDMUND RANDOLPH.

Philadelphia, September 30, 1782.

DEAR SIR,

The remittance to Colonel Bland is a source of hope to his brethren. I am almost ashamed to reiterate my wants so incessantly to you, but they begin to be so urgent that it is impossible to suppress them. The kindness of our little friend in Front street, near

* The debilitating and protracted sufferings of Mr. Laurens in the Tower require every allowance for the tenor and tone of his representation to Parliament; especially as after his liberation, and whilst the definitive arrangements for it were on foot, it appears that he gave the most active proofs of his devoted patriotism, and vigilant zeal, in guarding against the insidious policy of the British Cabinet. It is known that this was the view taken of it by Mr. Madison.

the coffee-house, is a fund which will preserve me from extremities, but I never resort to it without great mortification, as he obstinately rejects all recompense. The price of money is so usurious, that he thinks it ought to be extorted from none but those who aim at profitable speculations. To a necessitous Delegate he gratuitously spares a supply out of his private stock.

No addition has been made to our stock of intelligence from Europe since the arrival of the French frigates. Some letters from the Marquis de la Fayette and others have since come to hand, but they are all of the same date with the despatches then received. One of the Marquis's paragraphs, indeed, signifies the tergiversation of Mr. Grenville, which had been only in general mentioned to us before. On the communication made by this gentleman to the Count de Vergennes of the object of his mission, he proposed verbally the unconditional acknowledgment of American Independence as a point to which the King had agreed. The Count de Vergennes immediately wrote it down, and requested him to put his name to the declaration. Mr. Grenville drew back, and refused to abide by any thing more than that the King was *disposed* to grant American Independence. This illustrates the *shade* of difference between Shelburne and Fox.

TO EDMUND RANDOLPH.

Philadelphia, October 8, 1782.

DEAR SIR,

Your favor of the twenty-seventh of September came to hand yesterday, and is a fresh instance of the friendly part you take in my necessities. In consequence of the hint in your last of a pressing representation to the Executive, our public letter of last week touched on that subject, but the letter received yesterday from the Governor, which seems to chide our urgency, forbids much expectation from such an expedient. The letter from Mr. Ambler enclosed for me a second bill on Mr. Holker, for two hundred dollars, which very seasonably enabled me to replace a loan by which I had anticipated it. About three hundred and fifty more (and not less) would redeem me completely from the class of debtors.

I omitted, in my last, to inform you that the Swedish Minister at Versailles had announced to Dr. Franklin the wish of his King to become an Ally of the United States, and that the treaty might be negotiated with the Doctor in particular. A plenipotentiary commission has, in consequence, issued for that purpose. The model transmitted by Congress is pretty analogous to the treaty with France, but is limited in duration to fifteen years.

TO EDMUND RANDOLPH.

Philadelphia, October 15, 1782.

DEAR SIR,

The offensive paragraph in the correspondence of Mr. L. with Mr. P., spoken of in your favor of the fifth, was, as you supposed, communicated to me by Mr. Jones. I am, however, but very imperfectly informed of it.

We have not yet received a second volume of the negotiations at Versailles; nor any other intelligence from Europe, except a letter from Mr. Carmichael, dated about the middle of June, which is chiefly confined to the great exertions and expectations with respect to Gibraltar. Whilst the siege is depending, it is much to be apprehended that the Court of Madrid will not accelerate a pacification.

Extract of a letter from Sir Guy Carleton to General Washington, dated New York, September twelfth, 1782.

“Partial though our suspension of hostilities may be called, I thought it sufficient to have prevented those cruelties in the Jerseys (avowed) which I have had occasion to mention more than once; but if war was the choice, I never expected this suspension should operate further than to induce them to carry it on as is practised by men of liberal minds. I am clearly of opinion with Your Excellency, that mutual agreement is necessary for a suspension of hostility, and, without this mutual agreement, either is free to act as each may judge expedient; yet I must, at the same time, frankly declare to you, that being no longer able to discern the object we contend for,

I disapprove of all hostilities both by sea and land, as they only tend to multiply the miseries of individuals, when the public can reap no advantage from success. As to the savages, I have the best assurances, that from a certain period, not very long after my arrival here, no parties of Indians were sent out, and that messengers were despatched to recall those who had gone forth before that time; and I have particular assurances of disapprobation of all that happened to your party on the side of Sandusky, except so far as was necessary for self-defence."

It would seem, from this paragraph, that the insidious object of a separate convention with America was still pursued.

The symptoms of an evacuation of New York became every day less apparent. Our next intelligence from Charleston will probably confirm our expectations as to that metropolis.

TO EDMUND RANDOLPH.

Philadelphia, October 22, 1782.

DEAR SIR,

By the vessel spoken of in my last, Congress have received a letter from Mr. Adams, dated Hague, August the eighteenth, which enclosed a copy of the plenipotentiary commission issued to Mr. Fitzherbert, the British Minister at Brussels.⁴⁰ The following skeleton of the commission will give you an idea of its aspect towards America :

"Georgius tertius, etc., omnibus, etc., salutem.
Cum, belli incendio jam nimis diu diversis orbis ter-

rarum partibus flagrante, in id quam maxime incumbamus ut tranquillitas publica, tot litibus, etc., rite compositis, reduci, etc., possit,—cunque eâ de causa, virum quendam tanto negotio parem, ad bonum fratrem nostrum, Regem Chris^{mum} mittere decrevimus: Sciatis igitur quod nos, fide, etc. Alleini Fitzherbert, etc., confisi, eundem nominavimus, etc., nostrum Plenipotentiarum, dantes, etc., eidem omnem potestatem, etc., nec non mandatum generale pariter ac speciale, etc., in aula prædicti bon. frat. Reg. Chris^{mi} pro nobis et nostro nomine, una cum *Plenipotentariis, tam Celsorum et Præpotentium Dominorum, ordinum Generalium Fæderati Belgii, quam quorumcunque Principum et Statuum quorum interesse poterit*, sufficiente auctoritate instructis, tam singulatim ac divisim quam aggregatim ac conjunctim, congregandi, etc., atque cum ipsis de pace, concordia, etc., præsentibus, etc. etc. In palatio nostro, etc., 24 Julii, 1782.

The only further circumstance contained in his letter, relative to the business of a pacification, is the appointment of a Plenipotentiary by the States General, who was to set out for Paris in about three weeks after the date of the letter.

The States of Holland and West Friesland had determined upon the proposed treaty of commerce, and Mr. Adams expected to have a speedy conference with the States General, in order to bring it to a conclusion.

The Secretary of War lately communicated to Congress an extract of a letter from General Washington of a very unwelcome tenor. It paints the discontents of the army in very unusual colors, and

surmises some dangerous eruption, unless a payment can be effected within the present year. The Secretary is gone to head-quarters at the request of the General. How far their joint precautions will calm the rising billows, must be left to the result.

Congress have reduced the estimate for the ensuing year to six millions of dollars, and the requisitions on the States, for the present, to one-third of that sum. A call for the residue is suspended till the result of the applications for loans shall be known.

The combined fleets have certainly gone to support the siege of Gibraltar. The Dutch has returned to the Texel. According to the preconcerted plan, it was to have proceeded North, after disposing of its convoy, and have reinforced the combined fleet. The disappointment is traced up to the machinations of the Prince of Orange, whose attachment to the enemies of the Republic seems to be fatal to all her exertions. For other particulars taken from foreign gazettes, I refer to those herewith enclosed, and those enclosed to Mr. Ambler.

TO EDMUND RANDOLPH.

Philadelphia, October 29, 1782.

DEAR SIR,

Some intelligence has been received from the frontiers of New York, which revives the apprehensions of further inroads from Canada, and co-operation on the part of the Vermonters. The tenor of Carleton's letter to General Washington on this sub-

ject, and other circumstances, render this article at least extremely doubtful.

The British fleet at New York has been busy in preparing for sea, and will probably soon depart from that station. The West Indies most naturally occur as the object of its destination. It is said their preparations have been much expedited by the most direct and undisguised supplies from the people of New Jersey.

Congress have been occupied for several days past with the case of Lippencot, referred to them by General Washington. On one side it was urged, that the disavowal and promises by the British Commander, the abolition of the obnoxious board of refugees, and the general change of circumstances, rendered retaliation unnecessary and inexpedient. On the other side it was contended, that a departure from the resolution so solemnly adopted and repeated by General Washington, with equal solemnity ratified by Congress, would be an indelible blot on our character; that after the confessions on the part of the enemy of the deed complained of, a greater inflexibility on our part would be looked for; that after such confessions, too, the enemy would never suffer the innocent to perish, if we persisted in demanding the guilty; and finally, that if they should suffer it, the blood would be on their heads, not on ours. No definitive resolution has yet passed on the subject. All the intermediate steps have been very properly entered on the secret journals.

General Lincoln has just returned from the army. He has not yet made a report to Congress. He says, I understand, that his visit has had a very salutary

operation, but that some pay must be found for the army. Where it is to be found, God knows. The state of the public finances has already compelled the Superintendant to give a discharge to the former contractors, and to accept of a new contract, by which thirty per cent. is added to the price of a ration in consideration of credit for three months. He has, on this occasion, written a pressing exhortation to the States, which, I suppose, is accessible to you.

Mr. Carroll moved, yesterday, a resolution for accepting the territorial cession of New York. It stands the order for to-day. I regret much, on this occasion, the absence of Mr. Jones.⁴¹

DEBATES
IN THE
CONGRESS OF THE CONFEDERATION,
FROM NOVEMBER 14TH, 1782, TO FEBRUARY 13TH, 1783.

IN CONGRESS, MONDAY, NOVEMBER 4TH, 1782.

ELIAS BOUDINOT was chosen President, by the votes of New Hampshire, represented by John Taylor Gilman and Phillips White—Rhode Island, by Jonathan Arnold and David Howell—Connecticut, by Benjamin Huntington and Eliphalet Dyer—New Jersey, by Elias Boudinot and John Witherspoon—Pennsylvania, by Thomas Smith. George Clymer, and Henry Wynkoop—Delaware, by Thomas McKean and Samuel Wharton—Maryland, by John Hanson, Daniel Carroll, and William Hemsley. The votes of Virginia, represented by James Madison and Theodorick Bland, and of South Carolina, represented by John Rutledge, Ralph Izard, David Ramsay, and John Lewis Gervais, were given to Mr. Bland. The vote of New York, represented by James Duane and Ezra L'Hommedieu, to Abner Nash. The vote of North Carolina, by Abner Nash, Hugh Williamson, and William Blount, to John Rutledge. Massachusetts, having no Delegate but Samuel Osgood, had no vote. Georgia had no Delegate.

A letter, dated October the thirtieth, seventeen hundred and eighty-two, from General Washington, was read, informing Congress of his putting the army into winter quarters, and of the sailing of fourteen ships of the line from New York, supposed to be for the West Indies, and without troops.

A letter, dated July the eighth, from Mr. Carmichael, at St. Ildefonso, informing Congress of the good effect in Europe of the rejection of the proposal of Carleton, by Congress and the States; that the King of Spain, speaking of the news at table, praised greatly the probity of the Americans, raising his voice in such a manner that all the foreign Ministers might hear him. Mr. Carmichael adds, that he had discovered that the Imperial and Russian Ministers, by directions from their Courts, had renewed their offered mediation to His Most Catholic Majesty, and that he suspected England was at the bottom of it. *Quere.*

A letter, dated Nants, September the fifth, from Mr. Laurens, notifying his intention to return to America; that being so advised by his friends, he had applied to the Court of London for a passport via Falmouth; that Cornwallis had interested himself therein, and that the passport had been promised.

TUESDAY, NOVEMBER 5TH.

A resolution passed, authorizing General Washington to obtain the exchange of two foreign officers, notwithstanding the resolution of the sixteenth of October, declaring that Congress will go into no

partial exchanges until a general cartel be settled *on national* principles. This measure passed without due consideration, by the votes of New Hampshire, Rhode Island, Connecticut, Delaware, Maryland, North Carolina, and South Carolina. On the motion of Mr. Osgood, it was reconsidered, in order to refer the case to the Secretary of War and General Washington, to take order. By Mr. MADISON opposition was made against any partial exchange in the face of the solemn declaration passed on the sixteenth of October, as highly dishonorable to Congress, especially as that declaration was made in order to compel the enemy to a national convention with the United States. All exchanges had been previously made on the part of the former by the military authority of their generals. After the letter of General Carleton and Admiral Digby, notifying the purpose of the British King to acknowledge our independence, it was thought expedient by Congress to assume a higher tone. It was supposed also, at the time of changing this mode, that it would be a test of the enemy's sincerity with regard to independence. As the trial had been made, and the British Commander, either from a want of power or of will, had declined treating of a cartel on national ground, it would be peculiarly preposterous and pusillanimous in Congress to return to the former mode. An adjournment suspended the vote on the question for referring the case to the Secretary and General to take order.

WEDNESDAY, NOVEMBER 6TH.

No Congress.

THURSDAY, NOVEMBER 7TH.

On the reconsideration of the resolution for exchanging the two foreign officers, its repeal was unanimously agreed to.

A motion was made by Mr. OSGOOD, to assign an early day for filling up the vacancy in the Court of Appeals. It was opposed on the principle of economy, and the expedient suggested by Mr. DUANE of empowering a single judge to make a court *until the public finances would better bear the expense*. In favor of the motion it was argued: first, that the proceedings of the court were too important to be confided to a single judge; secondly, that the decisions of a single judge would be less satisfactory in cases where a local connection of the judge subsisted with either of the parties; thirdly, that a single judge would be more apt, by erroneous decisions, to embroil the United States in disputes with foreign powers; fourthly, that if there were more than one judge, and one formed a court, there might, at the same time, be two interfering jurisdictions, and that, if any remedy could be applied to this difficulty, the course of decisions would inevitably be less uniform, and the provision of the Confederation for a court of universal appellant jurisdiction so far contravened; fifthly, as there was little reason to expect

that the public finances would, during the war, be more equal to the public burthens than at present, and as the cases within the cognizance of the court would cease with the war, the qualification annexed to the expedient ought to have no effect. The motion was disagreed to, and a committee which had been appointed to prepare a new ordinance for constituting the Court of Appeals was filled up, and instructed to make report. On the above motion, an opinion was maintained by Mr. RUTLEDGE, that, as the court was, according to the ordinance in force, to consist of three judges, any two of whom to make a court, unless three were in actual appointment the decisions of two were illegal.

Congress went into the consideration of the report of the Committee on the case of Captain Asgill, the British officer allotted to suffer retaliation for the murder of Captain Huddy. The report proposed :

“That, considering the letter of the twenty-ninth of July last, from the Count de Vergennes to General Washington, interceding for Captain Asgill, the Commander-in-Chief be directed to set him at liberty.”

Previous to the receipt of this letter from the Count de Vergennes, Congress had been much divided as to the propriety of executing the retaliation, after the professions on the part of the British commanders of a desire to carry on the war on humane principles, and the promises of Sir Guy Carleton to pursue as effectually as possible the real authors of the murder; some supposing that these circumstances had so far changed the ground that Congress ought to recede from their denunciations,—others supposing that as the condition of the menace had not been

complied with, and the promises were manifestly evasive, a perseverance on the part of Congress was essential to their honor; and that moreover it would probably compel the enemy to give up the notorious author of the confessed murder. After the receipt of the letter from the Count de Vergennes, Congress were unanimous for a relaxation. Two questions, however, arose on the report of the Committee. The first was, on what considerations the discharge of Captain Asgill ought to be grounded. On this question a diversity of opinions existed. Some concurred with the Committee in resting the measure entirely on the intercession of the French Court; alleging that this was the only plea that could apologize to the world for such a departure from the solemn declaration made both by Congress and the Commander-in-Chief. Others were of opinion that this plea, if publicly recited, would mark an obsequiousness to the French Court, and an impeachment of the humanity of Congress, which greatly outweighed the circumstance urged in its favor; and that the disavowal of the outrage by the British General, and a solemn promise to pursue the guilty authors of it, afforded the most honorable ground on which Congress might make their retreat. Others, again, contended for an enumeration of all the reasons which led to the measure. Lastly, others were against a recital of any reason, and for leaving the justification of the measure to such reasons as would occur of themselves. This last opinion, after considerable discussions, prevailed, and the resolution left as it stands on the journal. The second question was, whether this release of Captain Asgill

should be followed by a demand on General Carleton to fulfil his engagement to pursue with all possible effect the authors of the murder.

On one side it was urged, that such a demand would be nugatory, after the only sanction which could enforce it had been relinquished; that it would not be consistent with the letter of the Count de Vergennes, which solicited complete oblivion; and that it would manifest to the public a degree of confidence in British faith which was not felt and ought not to be affected.

On the opposite side it was said, that after the confession and promise of justice by General Carleton, the least that could be done by General Washington would be to claim a fulfilment; that the intercession of the Count de Vergennes extended no further than to prevent the execution of Captain Asgill, and the substitution of any other innocent victim, and by no means was meant to shelter the guilty; that whatever blame might fall on Congress for seeming to confide in the promises of the enemy, they would be more blamed if they not only dismissed the purpose of retaliating on the innocent, but at the same time omitted to challenge a promised vengeance on the guilty; that if the challenge was not followed by a compliance on the part of the enemy, it would at least promulge and perpetuate, in justification of the past measures of Congress, the confessions and promises of the enemy on which the challenge was grounded; and would give weight to the charges both of barbarity and perfidy which had been so often brought against them.

In the vote on this question, six States were in favor of the demand, and the others either divided or against it.

FRIDAY, NOVEMBER 8TH.

The preceding question having been taken again, on a further discussion of the subject, there were in favor of the demand, New Hampshire, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and of the other States some were divided.

A motion was made by MR. RUTLEDGE, of South Carolina, "That the Commander-in-Chief and of the Southern Department be respectively directed, whenever the enemy shall commit any act of cruelty or violence, contrary to the laws and usage of war, on the citizens of these States, to demand adequate satisfaction for the same; and in case such satisfaction shall not be immediately given, but refused or evaded under any pretext whatsoever, to cause suitable retaliation to be forthwith made on British officers, without waiting for directions from Congress on the subject."

When this motion was first made it was espoused by many: with great warmth, in particular, by the Delegates of North Carolina and South Carolina, as necessary to prevent the delays and uncertainties incident to a resort by the Military Commanders to Congress, and to convince the enemy that, notwithstanding the dismissal of Captain Asgill, the general purpose of retaliation was firmly retained.

Against the motion it was objected—first, that the time and place in which it stood would certainly convey an indirect reprehension of General Washington for bringing before Congress, the case of Captain Asgill and Huddy; secondly, that it manifested a distrust in Congress which, however well founded it might be with respect to retaliation, ought not to be proclaimed by themselves; thirdly, that political and national considerations might render the interference of the supreme authority expedient, of which the letter from the Count de Vergennes, in the late case, furnished an instance; that the resort of the Military Commanders to the Sovereign for direction in great and difficult cases, such as those of retaliation would often prove, was a right of which they ought not to be deprived, but in the exercise of which they ought rather to be countenanced. These objections reduced the patrons of the motion to the Delegates of North Carolina and South Carolina alone, or nearly so. In place of it, the declaratory motion on the Journal was substituted. This again was objected to, as implying that, in the cases of retaliation taken up by the Military Commanders, they had proceeded on doubtful authority. To remove this objection the amendment was proposed limiting the preamble to the single act of discharging Captain Asgill. This, however, was not entirely satisfactory, because that particular act could have no constructive influence on the reputed authority of the generals. It was acceded to by the votes of several who were apprehensive that, in case of rejecting it, the earnestness of some might obtrude a substitute less harmless, or that the resolution might

pass without the preamble, and be more offensive to the Commander-in-Chief. The first apprehension was the prevailing motive with many to agree to the proposition on the final question.

This day a letter was received from General Washington, enclosing one, of the twenty-fifth of October, from Sir Guy Carleton, relative to the demand made on him for a liquidation of accounts, and payment of the balance due for the maintenance of prisoners of war, in which the latter used an asperity of language so much the reverse of his preceding correspondence, that many regard it as portending a revival of the war against the United States.⁴²

SATURDAY AND MONDAY.

No Congress.

TUESDAY, NOVEMBER 12TH.

The re-appointment of Mr. Jefferson, as Minister Plenipotentiary for negotiating peace, was agreed to unanimously, and without a single adverse remark. The act took place in consequence of its being suggested, that the death of Mrs. Jefferson had probably changed the sentiments of Mr. Jefferson with regard to public life; and that all the reasons which led to his original appointment still existed, and, indeed, had acquired additional force from the improbability that Mr. Laurens would actually assist in the negotiation.

“A motion was made by Mr. RUTLEDGE, declaring that when a matter was referred to any of the departments *to take order*, it was the sense and meaning of Congress that the same should be carried into execution.” On this motion some argued that such reference amounted to an absolute injunction; others insisted that it gave authority, but did not absolutely exclude discretion in the Executive departments. The explanation that was finally acquiesced in as most rational and conformable to practice, was, that it not only gave authority, but expressed the sense of Congress that the measure ought to be executed: leaving it so far, however, in the discretion of the Executive Department, as that, in case it differed in opinion from Congress, it might suspend execution, and state the objections to Congress, that their final direction might be given. In the course of debate it was observed, by Mr. MADISON, that the practice of referring matters to take order, especially where money was to be issued, was extremely exceptionable, inasmuch as no entry of such proceedings was made on the Journals, but only noted in a memorandum book kept by the Secretary, and then sent to the Department, with the reference to take order endorsed by the Secretary, but not signed by him; so that the transaction, even where public in its nature, never came before the public eye, and the Department was left with a precarious voucher for its justification. The motion was, in the end, withdrawn; the mover alleging that, as he only aimed at rendering an uncertain point clear, and this had been brought about by a satisfactory explanation, he did not wish for any resolution on the subject.

WEDNESDAY, NOVEMBER 13TH.

No Congress.

THURSDAY, NOVEMBER 14TH.

The proceedings were confined to the Report of the Committee on the case of Vermont, entered on the Journal. As it was notorious that Vermont had uniformly disregarded the recommendation of Congress of 1779, the Report, which ascribed the evils prevalent in that district to a late act of New York, which violated that recommendation, was generally admitted to be unjust and unfair. Mr. HOWELL was the only member who openly supported it. The Delegates from New York denied the fact that any violation had been committed on the part of that State. The temper of Congress, on this occasion, as the yeas and nays show, was less favorable to Vermont than on any preceding one,—the effect probably of the territorial cession of New York to the United States. In the course of the debate, Mr. HOWELL cited the case of Kentucky as somewhat parallel to that of Vermont; said that the late creation of a separate court by Virginia for the former, resembled the issuing of commissions by New York to the latter; that the jurisdiction would probably be equally resisted, and the same violences would follow as in Vermont. He was called to order by Mr. MADISON. The President and the plurality of Congress supported and enforced the call.

No Congress till

MONDAY, 18TH, AND TUESDAY 19TH, NOVEMBER.

The Journals sufficiently explain the proceedings of those days.

WEDNESDAY, NOVEMBER 20TH.

Congress went into consideration of the Report of a Committee, consisting of Mr. CARROLL, Mr. MCKEAN, and Mr. Howell, on two memorials from the Legislature of Pennsylvania. The memorials imported a disposition to provide for the creditors of the United States within the State of Pennsylvania, out of the revenues allotted for Congress, unless such provision could be made by Congress. The Report, as an answer to the memorials, acknowledged the merit of the public creditors, professed the wishes of Congress to do them justice; referring, at the same time, to their recommendation of the impost of five per cent., which had not been acceded to by all the States; to the requisition of one million two hundred thousand dollars, for the payment of one year's interest on the public debt, and to their acceptance of the territorial cession made by New York. After some general conversation, in which the necessity of the impost, as the only fund on which loans could be expected, and the necessity of loans to supply the enormous deficiency of taxes, were urged, as also the fatal tendency of the plan intimated in the memorials, as well to the Union itself as to the system

actually adopted by Congress, the Report was committed.

A motion was made by Mr. RUTLEDGE, seconded by Mr. WILLIAMSON, to instruct the Committee to report the best mode of liquidating the domestic debts, and of obtaining a valuation of the land within the several States, as the Article of Confederation directs. The first part of the instruction was negatived, provision having been previously made on that head. In place of it the Superintendent of Finance was instructed to report the causes which impede that provision. The second part was withdrawn by the mover. A committee, however, was afterwards appointed, consisting of Mr. RUTLEDGE, Mr. NASH, Mr. DUANE, Mr. OSGOOD, and Mr. MADISON, to report the best scheme for a valuation.

THURSDAY, NOVEMBER 21ST.

A report was made by a committee to whom had been referred several previous reports and propositions relative to the salaries of foreign Ministers, delivering it as the opinion of the Committee, that the salaries allowed to Ministers Plenipotentiary, to wit, two thousand five hundred pounds sterling, would not admit of reduction; but that the salary allowed to Secretaries of Legations, to wit, one thousand pounds sterling, ought to be reduced to five hundred pounds. This Committee consisted of Mr. DUANE, Mr. IZARD, and Mr. MADISON, the last of whom disagreed to the opinion of his colleagues as to the reduction of the two thousand five hundred pounds allowed to Ministers Plenipotentiary.

Against a reduction it was argued that not only justice, but the dignity of the United States, required a liberal allowance to foreign servants; that gentlemen who had experienced the expense of living in Europe did not think that a less sum would be sufficient for a decent style; and that, in the instance of Mr. Arthur Lee, the expenses claimed by him and allowed by Congress exceeded the fixed salary in question.

In favor of a reduction were urged, the poverty of the United States, the simplicity of republican governments, the inconsistency of splendid allowances to Ministers, whose chief duty lay in displaying the wants of their constituents, and soliciting a supply of them; and, above all, the policy of reconciling the army to the economical arrangements imposed on them, by extending the reform to every other department.

The result of this discussion was a reference of the Report to another committee, consisting of Mr. WILLIAMSON, Mr. OSGOOD and Mr. CARROLL.

A motion was made by Mr. HOWELL, seconded by Mr. ARNOLD, recommending to the several States to settle with and satisfy, at the charge of the United States, all such temporary corps as had been raised by them respectively, with the approbation of Congress. The repugnance which appeared in Congress to go into so extensive and important a measure at this time, led the mover to withdraw it.

A motion was made by Mr. MADISON, seconded by Mr. JONES, "That the Secretary of Foreign Affairs be authorized to communicate to Foreign Ministers, who may reside near Congress, all such articles of

intelligence received by Congress as he shall judge fit; and that he have like authority with respect to acts and resolutions passed by Congress; reporting, nevertheless, the communications which, in all such cases, he shall have made."

It was objected, by some, that such a resolution was unnecessary, the Secretary being already possessed of the authority; it was contended by others that he ought, previously to such communication, to report his intention to do so; others, again, were of opinion that it was unnecessary to report at all.

The motion was suggested, by casual information from the Secretary, that he had not communicated to the French Minister the re-appointment of Mr. Jefferson, no act of Congress having empowered or instructed him to do so.

The motion was committed to Mr. WILLIAMSON, Mr. MADISON, and Mr. PETERS.

FRIDAY, NOVEMBER 22ND.

A considerable time previous to this date, a letter had been received by Congress from Mr. Henry Laurens, informing them of his discharge from captivity, and of his having authorized in the British Ministry an expectation that Earl Cornwallis should in his turn be absolved from his parole. Shortly after, a letter from Dr. Franklin informed Congress that at the pressing instance of Mr. Laurens, and in consideration of the offer of General Burgoyne for Mr. Laurens by Congress, as well as the apparent reasonableness of the thing, he had executed an instrument setting Cornwallis at liberty from his parole,

until the pleasure of Congress should be known. These papers had been committed to Mr. RUTLEDGE, Mr. MONTGOMERY and Mr. MADISON, who reported in favor of the ratification of the measure, against the opinion, however, of Mr. RUTLEDGE, the first member of the Committee. The report, after some discussion, had been recommitted, and had lain in their hands until, being called for, it was thought proper by the Committee to obtain the sense of Congress on the main question, whether the act should be ratified or annulled; in order that a report might be made correspondent thereto. With this view, a motion was this day made by Mr. MADISON, seconded by Mr. OSGOOD, that the Committee be instructed to report a proper act for the ratification of the measure. In support of this motion it was alleged, that whenever a public minister entered into engagements without authority from his Sovereign, the alternative which presented itself was either to recall the minister, or to support his proceedings, or perhaps both; that Congress had, by their resolution of the seventeenth day of September refused to accept the resignation of Mr. Laurens, and had insisted on his executing the office of a Minister Plenipotentiary; and that on the twentieth day of September they had rejected a motion for suspending the said resolution; that they had no option, therefore, but to fulfil the engagement entered into on the part of that Minister; that it would be in the highest degree preposterous to retain him in so dignified and confidential a service, and at the same time stigmatize him by a disavowal of his conduct, and thereby disqualify him for a proper execution of the service; that it was

improper to send him into negotiations with the enemy, under an impression of supposed obligations; that this reasoning was in a great degree applicable to the part which Dr. Franklin had taken in the measure; that, finally, the Marquis de la Fayette, who, in consequence of the liberation of Cornwallis, had undertaken an exchange of several officers of his family, would also participate in the mortification; that it was overrating far the importance of Cornwallis, to sacrifice all these considerations to the policy or gratification of prolonging his captivity.

On the opposite side it was said, that the British Government having treated Mr. Laurens as a traitor, not as a prisoner of war, having refused to exchange him for General Burgoyne, and having declared, by the British General at New York, that he had been freely discharged, neither Mr. Laurens nor Congress would be bound, either in honor or justice, to render an equivalent; and that policy absolutely required that so barbarous an instrument of war, and so odious an object to the people of the United States, should be kept as long as possible in the chains of captivity; that as the latest advices rendered it probable that Mr. Laurens was on his return to America, the commission for peace would not be affected by any mark of disapprobation which might fall on his conduct; that no injury could accrue to Dr. Franklin, because he had guarded his act by an express reservation for the confirmation or disallowance of Congress; that the case was the same with the Marquis de la Fayette; that the declaration against partial ex-

changes, until a cartel on national principles should be established, would not admit even an exchange antecedent thereto.

These considerations were, no doubt, with some the sole motives for their respective votes. There were others, however, who at least blended with them, on one side, a personal attachment to Mr. Laurens, and on the other, a dislike to his character, and a jealousy excited by his supposed predilection for Great Britain, by his intimacy with some of the new Ministry, by his frequent passing to and from Great Britain, and by his memorial, whilst in the Tower, to the Parliament. The last consideration was the chief ground on which the motion had been made for suspending the resolution, which requested his continuance in the commission for peace.

In this stage of the business, a motion was made by Mr. DUANE, seconded by Mr. RUTLEDGE, to postpone the consideration of it; which being lost, a motion was made by Mr. WILLIAMSON, to substitute a resolution declaring, that as the British Government had treated Mr. Laurens with so unwarrantable a rigor, and even as a traitor, and Cornwallis had rendered himself so execrable by his barbarities, Congress could not ratify his exchange. An adjournment was called for, in order to prevent a vote with so thin and divided a House.⁴³

No Congress till

MONDAY, NOVEMBER 25TH.

A letter from the Lieutenant Governor of Rhode Island was read, containing evidence that some of the leaders in Vermont, and particularly Luke Noltton, who had been deputed in the year 1780 to Congress as agent for that party, opposed to its independence, but who had since changed sides, had been intriguing with the enemy in New York. The letter was committed. (See November the twenty-seventh.)

The consideration of the motion for ratifying the discharge of Cornwallis was resumed. Mr. WILIAMSON renewed his motion, which failed. Mr. McKEAN suggested the expedient of ratifying the discharge, on condition that a general cartel should be acceded to. This was relished at first by several members, but a developement of its inefficacy and inconsistency with national dignity stifled it.

A motion was made by Mr. RUTLEDGE, seconded by Mr. RAMSAY, that the discharge should be ratified in case Mr. Laurens should undertake the office of commissioner for peace. This proposition was generally considered as of a very extraordinary nature, and after a brief discussion withdrawn.

In the course of these several propositions, most of the arguments stated on Friday last were repeated. Colonel HAMILTON, who warmly and urgently espoused the ratification, as an additional argument, mentioned that some intimations had been given by Colonel Laurens, of the army, with the privity of General Washington, to Cornwallis,

previous to his capitulation, that he might be exchanged for his father, then in the Tower.

The report of the Committee on Mr. MADISON'S motion, on the twenty-first instant, relative to the Secretary of Foreign Affairs, passed without opposition.

TUESDAY, NOVEMBER 26TH.

No Congress, but a Grand Committee* composed of a member from each State.

The States of New Hampshire and Massachusetts having redeemed more than their quota of the emissions prior to the eighteenth of March, 1780, had called on Congress to be credited for the surplus, on which the Superintendent of Finance reported, that they ought to be credited at the rate of one dollar specie for forty of the said emission, according to the act of March aforesaid. This report, being judged by Congress unjust, as the money had been called in by those States at a greater depreciation, was disagreed to. Whereupon, a motion was made by Mr. OSGOOD, that the States who had redeemed a surplus should be credited for the same according to its current value at the time of redemption.

This motion, with a letter afterwards received from the State of Massachusetts on the same subject, was referred to the Grand Committee in question.

* The proceedings of Grand Committees, though often rendered particularly important by the freedom and fulness of discussion, make no part of the Journal, except in the reported result.

The Committee were unanimous that justice required an allowance to the States who should sink a surplus, to be apportioned on the different States. The different expedients were :

That Congress should renew their call on the States to execute the act of the eighteenth of March, 1780, and leave it to the States to level the money by negotiations among themselves. This was Mr. HAMILTON's idea. The objections against it were, that either nothing would be done in the case, or the deficient States would be at the mercy of the hoarding States; although the former were, perhaps, prevented from doing their part by invasions, and the prosperity of the latter enabled them to absorb an undue proportion.

By Mr. MADISON it was proposed that Congress should declare, that whenever it should appear that the whole of the bills emitted prior to the eighteenth of March, 1780, shall have been collected into the treasuries of the several States, Congress would proceed to give such credit for any surplus above the quotas assigned as equity might require, and debit the deficient States accordingly. In favor of this expedient it was supposed that it would give a general encouragement to the States to draw the money outstanding among individuals into the public treasuries, and render a future equitable arrangement by Congress easy. The objections were, that it gave no satisfaction immediately to the complaining States, and would prolong the internal embarrassments which have hindered the States from a due compliance with the requisitions of Congress.

It was lastly proposed by Mr. FITZSIMMONS, that

the Commissioners appointed to traverse the United States, for the purpose of settling accounts, should be empowered to take up all the outstanding old money, and issue certificates to be apportioned on the States as part of the public debt; the same rule to determine the credit for redemptions by the States. This proposition was, on the whole, generally thought by the Committee least objectionable, and was referred to a sub-committee, composed of Mr. RUTLEDGE, Mr. FITZSIMMONS, and Mr. HAMILTON, to be matured and laid before the Grand Committee. One consideration suggested by Mr. HAMILTON in its favor was, that it would multiply the advocates for federal funds for discharging the public debts, and tend to cement the Union.⁴⁶

WEDNESDAY, NOVEMBER 27TH.

The report of the Committee on the letter from the Lieutenant Governor of Rhode Island (see November the twenty-fifth) was made, and taken into consideration.

It was moved by Mr. McKEAN, to insert in the first clause on the Journal, after directing the apprehension by General Washington, "in order that the persons may be brought to trial." The reason urged for the motion was, that it might appear that the interposition was not meant to supersede civil process further than the necessity of the case required. Against the motion it was urged, that it would lead to discussions extremely perplexing and dilatory, and that it would be more proper after the appre-

hension should have taken place. The motion was lost, six States only being for it. (See page 281.)

With respect to the main question, it was agreed on all sides, that it was indispensable to the safety of the United States that a traitorous intercourse between the inhabitants of Vermont and the enemy should be suppressed. There were, however, two modes proposed for the purpose, viz: the direct and immediate interposition of the military force, according to the report; and, secondly, a reference in the first instance to the acting authority in Vermont, to be followed, in case of refusal or neglect of justice on the offenders, by an exertion of compulsive measures against the whole body.

In favor of the first mode it was said, that it would be the only effectual one, and the only one consistent with the part Congress had observed with regard to Vermont; since a reference to the authority of Vermont, which had itself been suspected and accused, would certainly be followed at the best by a mere mock trial; and would, moreover, be a stronger recognition of its independence than Congress had made or meant to make.

In favor of the second mode it was alleged, that the body of the people in Vermont were well attached to the Revolution; that a sudden march of military force into the country might alarm them; that if their rulers abetted the traitors, it would disgrace them in the eyes of their own people, and that Congress would be justified in that event to "split Vermont up among the other States." This expression, as well as the arguments on this side, in general, came from Mr. HOWELL, of Rhode Island, whose

object was to render the proceedings of Congress as favorable as possible to the independence of Vermont.

In order to compromise the matter, Mr. ARNOLD moved that the Commander-in-Chief should be directed to make a previous communication of his intentions, and the evidence on which they were founded, to the persons exercising authority within the district in question.

It was suggested by Mr. MADISON, as a better expedient, that he should be authorized to make the communication, if he should deem it conducive to the more certain apprehension of the suspected persons.

The Delegates from New York said, they would agree, that after the apprehension should have been effected, the Commander might give notice thereof to the persons exercising authority in Vermont.

It was finally compromised as it stands on the Journal.

In the course of the debate, Mr. CLARK informed Congress, that the Delegates of New Jersey could not vote for any act which might oppose force to the authority of Vermont, the Legislature of that State having so construed the resolutions of the seventh and twentieth of August as to be incompatible therewith, and accordingly instructed their Delegates.

The communication directed to the States on this occasion, through the Commander-in-Chief, was objected to by several members as an improper innovation. The object of it was to prevent the risk of discovery, if sent before the plans which might be

taken by General Washington were sufficiently advanced, of which he was the proper judge.⁴⁵

THURSDAY, NOVEMBER 28TH.

No Congress.

[Mr. Livingston, Secretary of Foreign Affairs, called upon me, and mentioned his intention to resign in a short time his office; observing, that as he ultimately was decided to prefer his place of Chancellor in New York to the other, and the two had become incompatible by the increase of business in the former, he thought it expedient not to return to Philadelphia, after a visit to New York which was required by this increase. In the course of conversation, he took notice that the expense of his appointment under Congress had exceeded his salary about three thousand dollars per annum. He asked me, whether it was probable Mr. Jefferson would accept the vacancy, or whether he would accept Mr. Jay's place in Spain, and leave the vacancy to the latter. I told him, I thought Mr. Jefferson would not accept it himself, and doubted whether he would concur in the latter arrangement; as well as whether Congress would be willing to part with Mr. Jay's services in the negotiations of peace; but promised to sound Mr. Jefferson on these points by the first opportunity.]

No Congress until

MONDAY, DECEMBER 2ND.

The Secretary of Foreign Affairs resigned his office, assigning as a reason the increase of business in his office of Chancellor of New York, whereby it was become impossible for him to execute the duties of both; informing Congress at the same time, as a rule for providing for his successor, that his expenses exceeded his salary upwards of three thousand dollars per annum. The letter of resignation was committed to Mr. McKEAN and Mr. OSGOOD.

TUESDAY, DECEMBER 3RD.

After a verbal report of the Committee above-mentioned, who acquainted Congress that in conference with Mr. LIVINGSTON he professed a willingness to remain in office till the first of January, to give time for the choice of a successor, Mr. McKEAN proposed the resolution which stands on the Secret Journals; several alterations having been made, however, in the course of its consideration. With respect to the preamble, particularly, a change took place. As it was first moved, it recited as the ground of the resignation the incompatibility of the Office of Foreign Affairs with the Chancellorship of New York. To this recital it was objected by Mr. MADISON, that such a publication of preference of the Office of Chancellor of a particular State, to the Office of

Foreign Affairs under the United States, tended to degrade the latter. Whereupon, the preamble on the Journal was substituted. In the course of this business, the expediency of augmenting the salary was suggested, but not much supported. Mr. HOWELL and Mr. CLARK opposed it strenuously.

The report of the Committee on the case of Vermont, mentioned on Thursday, the fourteenth of November, was called for by Mr. McKEAN, and postponed, on his motion, to make way for a set of resolutions, declaring that as Vermont, in contempt of the authority of Congress and their recommendations of 1799, exercised jurisdiction over sundry persons professing allegiance to the State of New York, banishing them and stripping them of their possessions, the former be required to make restitution, &c.; and that in case of refusal or neglect, Congress will enforce the same, &c. A motion was made by Mr. CLARK, seconded by Mr. HOWELL, to strike out the latter clause; in favor of which it was said, that such a menace ought to be suspended until Vermont should refuse to comply with the requisition; especially, said Mr. HOWELL, as the present proceeding, being at the instance of Phelps and other exiles, was an *ex parte* one.

Against the motion for expunging the clause, it was observed, that a requisition on Vermont without such a menace would have no effect; that if Congress interposed, they ought to do it with a decisive tone; that as it only enforced restitution in cases where spoliations had been committed, and therefore was conditional, the circumstance of its being *ex parte* was of no weight, especially as Congress

could not call on Vermont to appear as a party after her repeated protestations against appearing.

On this occasion, Mr. CARROLL informed Congress, that he had entirely changed his opinion with regard to the policy requisite with regard to Vermont, being thoroughly persuaded that its leaders were perfidious men, and that the interest of the United States required their pretensions to be discountenanced; that in this opinion he was not a little confirmed by a late conversation with General Whipple, of New Hampshire, at Trenton, in which this gentleman assured him, that the governing party in Vermont were perfidiously devoted to the British interests, and that he had reason to believe that a British commission for a governor of that district had come over, and was ready to be produced at a convenient season. Some of the members having gone out of Congress, and it being uncertain whether there would be more than six States for the clause, an adjournment was moved for and voted.

The proceedings on this subject evinced still more the conciliating effect of the territorial cession of New York, on several States, and the effect of the scheme of an ultra-montane State within Pennsylvania, on the latter State. The only States in Congress which stood by Vermont, were Rhode Island, which is supposed to be interested in lands in Vermont, and New Jersey, whose Delegates were under instructions on the subject.⁴⁶

WEDNESDAY, DECEMBER 4TH.

After the passing of the resolution concerning Captain Paul Jones, a motion was made by Mr. MADISON to reconsider the same, that it might be referred to the Agent of Marine to take order, as a better mode of answering the same purpose; since it did not become the sovereign body to give public sanction to a recommendation of Captain Jones to the Commander of the French Squadron, especially as there was no written evidence that the latter had signified a disposition to concur in the project of Captain Jones. The motion was lost; a few States only being in favor of it.

The reason assigned by those who voted against the promotion of Colonels to Brigadiers, according to districts, was, that such a division of the United States tends to foster local ideas, and might lead to a dismemberment.

The Delegates from Pennsylvania reminded Congress that no answer had been given to the memorials (see November the twentieth) from that State; that the Legislature were proceeding in the measure intimated in the said memorials, and that they meant to finish it and adjourn this evening. The reasons mentioned by the Delegates as prevailing with the Legislature, were—first, the delay of Congress to give an answer, which was deemed disrespectful; secondly, the little chance of any funds being provided by Congress for their internal debts; thirdly, the assurance (given by one of their members, Mr. Joseph Montgomery, mentioned privately, not on the

floor,) that no impediment to the support of the war could arise from it, since Congress had provided means for that purpose in Europe.

A committee, consisting of Mr. RUTLEDGE, Mr. MADISON and Mr. HAMILTON, was appointed to confer immediately with a committee from the Legislature on the subject of the memorials, and was instructed to make such communications, relative to our affairs abroad, as would correct misinformations. The committee which met them on the part of the Legislature, were Mr. Joseph Montgomery, Mr. Hill and Mr. Jacob Rush.

The Committee of Congress in the conference observed, that the delay of an answer had proceeded in part from the nature of so large an assembly, of which the Committee of the Legislature could not be insensible, but principally from the difficulty of giving a satisfactory one until Rhode Island should accede to the impost of five per cent., of which they had been in constant expectation; that with respect to the prospect from Congress for the public creditors, Congress had required of the States interest for the ensuing year, had accepted the territorial cession of New York, and meant still to pursue the scheme of the impost; that as to their affairs in Europe, the loan of six millions of livres only last year had been procured from France by Dr. Franklin, in place of twelve asked by him, the whole of which had been applied; that the loan of five millions of guilders, opened by Mr. Adams, had advanced to about one and a half million only, and there seemed little progress to have been made of late; that the application for four millions, as part

of the estimate for the ensuing year, was not founded on any previous information in its favor, but against every intimation on the subject, and was dictated entirely by our necessities; so that if even no part of the requisitions from the States should be denied or diverted, the support of the war, the primary object, might be but deficiently provided for; that if this example, which violated the right of appropriation delegated to Congress by the Federal Articles, should be set by Pennsylvania, it would be both followed by other States, and extended to other instances; that, in consequence, our system of administration, and even our bond of union, would be dissolved; that the enemy would take courage from such a prospect, and the war be prolonged, if not the object of it be endangered; that our national credit would fail with other powers, and the loans from abroad, which had been our chief resource, fail with it; that an assumption, by individual States, of the prerogative of paying their own citizens the debts of the United States out of the money required by the latter, was not only a breach of the federal system, but of the faith pledged to the public creditors, since payment was mutually guarantied to each and all of the creditors by each and all of the States; and that, lastly, it was unjust with respect to the States themselves, on whom the burden would fall, not in proportion to their respective abilities, but to the debts due to their respective citizens; and that at least it deserved the consideration of Pennsylvania whether she would not be loser by such an arrangement.

On the side of the other Committee it was answered,

that the measure could not violate the Confederation, because the requisition had not been founded on a valuation of land; that it would not be the first example, New Hampshire and New York having appropriated money raised under requisitions of Congress; that if the other States did their duty in complying with the demands of Congress, no inconvenience would arise from it; that the discontents of the creditors would prevent the payment of taxes; Mr. Hill finally asking whether it had been considered in Congress, how far delinquent States could be eventually coerced to do justice to those who performed their part? To all which it was replied, that a valuation of land had been manifestly impossible during the war; that the apportionments made had been acquiesced in by Pennsylvania, and therefore the appropriation could not be objected to; that although other States might have set previous examples, these had never come before Congress; and it would be more honorable for Pennsylvania to counteract than to abet them, especially as the example from her weight in the Union, and the residence of Congress would be so powerful, that if other States did their duty the measure would be superfluous; that the discontents of the creditors might always be answered by the equal justice and more pressing necessity which pleaded in favor of the army, who had lent their blood and services to their country, and on whom its defence still rested; that Congress, unwilling to presume a refusal in any of the States to do justice, would not anticipate it by a consideration of the steps which such refusal might require, and that ruin must ensue, if the States

suffered their policy to be swayed by such distrusts. The Committee appeared to be considerably impressed with these remarks, and the Legislature suspended their plan.⁴⁷

THURSDAY, DECEMBER 5TH.

Mr. Lowell and Mr. Read were elected Judges of the Court of Appeals. Mr. P. Smith, of New Jersey, had the vote of that State, and Mr. Merchant, of Rhode Island, the vote of that State.

The resolutions respecting Vermont, moved by Mr. McKEAN on the twenty-seventh day of November, were taken into consideration. They were seconded by Mr. HAMILTON, as entered on the Journal of this day. Previous to the question on the coercive clause, Mr. MADISON observed, that, as the preceding clause was involved in it, and the Federal Articles did not delegate to Congress the authority about to be enforced, it would be proper, in the first place, to amend the recital in the previous clause by inserting the ground on which the authority of Congress had been interposed. Some who voted against this motion in this stage having done so from a doubt as to the point of order, it was revived in a subsequent stage, when that objection did not lie. The objections to the motion itself were urged chiefly by the Delegates from Rhode Island, and with a view in this, as in all other instances, to perplex and protract the business. The objections were—first, that the proposed insertion was not warranted by the act of New Hampshire, which submitted to the judgment

of Congress *merely* the question of jurisdiction ; secondly, that the resolutions of August, 1781, concerning Vermont, having been acceded to by Vermont, annulled all antecedent acts founded on the doubtfulness of its claim to independence. In answer to the first objection the act of New Hampshire was read, which, in the utmost latitude, adopted the resolutions of Congress, which extended expressly to the preservation of peace and order, and prevention of acts of confiscation by one party against another. To the second objection it was answered—first, that the said resolutions of August being conditional, not absolute, the cession of Vermont could not render them definitive ; but secondly, that prior to this accession, Vermont having, in due form, rejected the resolutions, and notified the rejection to Congress, the accession could be of no avail, unless subsequently admitted by Congress ; thirdly, that this doctrine had been maintained by Vermont itself, which had *declared*, that, inasmuch as the resolutions of August did not correspond with their overtures previously made to Congress, these had ceased to be obligatory ; which act, it was to be observed, was merely *declaratory*, not creative, of the annulment.

The original motion of Mr. McKEAN and Mr. HAMILTON was agreed to, seven States voting for it, Rhode Island and New Jersey in the negative.

FRIDAY, DECEMBER 6TH.

An ordinance, extending the privilege of franking letters to the Heads of all the Departments, was

reported and taken up. Various ideas were thrown out on the subject at large; some contending for the extension proposed, some for a total abolition of the privilege, as well in Members of Congress as in others; some for a limitation of the privilege to a definite number or weight of letters. Those who contended for a total abolition represented the privilege as productive of abuses, as reducing the profits so low as to prevent the extension of the establishment throughout the United States, and as throwing the whole burden of the establishment on the mercantile intercourse. On the other side it was contended, that, in case of an abolition, the Delegates, or their constituents, would be taxed just in proportion to their distance from the seat of Congress; which was neither just nor politic, considering the many other disadvantages which were inseparable from that distance; that as the correspondence of the Delegates was the principal channel through which a general knowledge of public affairs was diffused, any abridgment of it would so far confine this advantage to the States within the neighbourhood of Congress; and that as the correspondence at present, however voluminous, did not exclude from the mail any private letters which would be subject to postage, and if postage was extended to letters now franked, the number and size of them would be essentially reduced, the revenue was not affected in the manner represented. The ordinance was disagreed to and the subject recommitted, with instruction to the Committee, giving them ample latitude for such report as they should think fit.

A Boston newspaper, containing, under the Provi-

dence head, an extract of a letter purporting to be written by a gentleman in Philadelphia, and misrepresenting the state of our loans, as well as betraying the secret proposal of the Swedish Court to enter into a treaty with the United States, with the view of disproving to the people of Rhode Island the necessity of the impost of five per cent., had been handed about for several days. From the style and other circumstances, it carried strongly the appearance of being written by a Member of Congress. The unanimous suspicions were fixed on Mr. HOWELL. The mischievous tendency of such publications, and the necessity of the interposition of Congress, were also general subjects of conversation. It was imagined, too, that a detection of the person suspected would destroy in his State that influence which he exerted in misleading its counsels with respect to the impost. These circumstances led Mr. WILLIAMSON to move the proposition on this subject: "Whereas there is reason to suspect, that as well the national character of the United States, and the honor of Congress, as the finances of the said States, may be injured, and the public service greatly retarded, by some publications that have been made concerning the foreign affairs of said States: Resolved, That a committee be appointed to inquire into this subject, and report what steps they conceive are necessary to be taken thereon." It was opposed by no one.

Mr. CLARK, supposing it to be levelled in part at him, rose and informed Congress, that not considering the article relative to Sweden as secret in its nature, and considering himself at liberty to make any communications to his constituents, he had

disclosed it to the Assembly of New Jersey. He was told that the motion was not aimed at him, but the doctrine advanced by him was utterly inadmissible. Mr. RUTLEDGE observed, that after this frankness on the part of Mr. CLARKE, as well as from the respect due from every member to Congress, and to himself, it might be concluded, that if no member present should own the letter in question, no member present was the author of it. Mr. HOWELL was evidently perturbed, but remained silent.

The conference with the Committee of the Legislature of Pennsylvania, with subsequent information, had rendered it very evident that, unless some effectual measures were taken against separate appropriations, and in favor of the public creditors, the Legislature of that State, at its next meeting, would resume the plan which they had suspended. Mr. RUTLEDGE, in pursuance of this conviction, moved that the Superintendent of Finance be instructed to represent to the several States the mischiefs which such appropriations would produce. It was observed, with respect to this motion, that, however proper it might be as one expedient, it was, of itself, inadequate; that nothing but a permanent fund for discharging the debts of the public would divert the States from making provision for their own citizens; that a renewal of the call on Rhode Island for the impost ought to accompany the motion; that such a combination of these plans would mutually give efficacy to them, since Rhode Island would be solicitous to prevent separate appropriations, and the other States would be soothed with the hope of the impost. These observations gave rise to the motion

of Mr. HAMILTON: "That the Superintendent of Finance be, and he is hereby, directed to represent to the Legislatures of the several States the indispensable necessity for their complying with the requisitions of Congress for raising one million two hundred thousand dollars, for paying one year's interest of the domestic debt of the United States, and two millions of dollars towards defraying the expenses of the estimate for the ensuing year, and the inconveniences, embarrassments, and injuries to the public service, which will arise from the States individually making appropriations of any part of the said two millions of dollars, or any other monies required by the United States in Congress assembled; assuring them withal, that Congress are determined to make the fullest justice to the public creditors an invariable object of their counsels and exertions; that a deputation be sent to the State of Rhode Island for the purpose of making a full and just representation of the public affairs of the United States, and of urging the absolute necessity of a compliance with the resolution of Congress of the third day of February, 1781, respecting the duty on imports and prizes, as a measure essential to the safety and reputation of these States."

Against Mr. RUTLEDGE's part of the motion no objection was made; but the sending a deputation to Rhode Island was a subject of considerable debate, in which the necessity of the impost—in order to prevent separate appropriations by the States, to do equal justice to the public creditors, to maintain our national character and credit abroad, to obtain the loans essential for supplying the deficiencies of reve-

nue, to prevent the encouragement which a failure of the scheme would give the enemy to persevere in the war—was fully set forth. The objections, except those which came against the scheme itself from the Delegates of Rhode Island, were drawn from the unreasonableness of the proposition. Congress ought, it was said, to wait for an official answer to their demand of an explicit answer from Rhode Island, before they could, with propriety, repeat their exhortations. To which it was replied, that although this objection might have some weight, yet the urgency of our situation, and the chance of giving a favorable turn to the negotiations on foot for peace, rendered it of little comparative significance. The objections were finally retracted, and both the propositions agreed to. The deputation elected were Mr. OSGOOD, Mr. MIFFLIN, and Mr. NASH, taken from different parts of the United States, and each from States that had fully adopted the impost, and would be represented without them, except Mr. Osgood, whose State, he being alone, was not represented without him.

SATURDAY, DECEMBER 7TH.

No Congress.

The Grand Committee met again on the business of the old paper emissions, and agreed to the plan reported by the sub-committee in pursuance of Mr. FITZSIMMONS' motion, viz: that the outstanding bills should be taken up, and certificates issued in place thereof at the rate of one real dollar for ———

nominal ones, and that the surpluses redeemed by particular States should be credited to them at the same rate. Mr. CARROLL alone dissented to the plan, alleging that a law of Maryland was adverse to it, which he considered as equipollent to an instruction. For filling up the blank, several rates were proposed. First, one for forty—on which the votes were, *no*, except Mr. HOWELL. Second, one for seventy-five, *no*; Mr. WHITE and Mr. HOWELL, *aye*. Third, one for one hundred, *no*; Mr. HAMILTON and Mr. FITZSIMMONS, *aye*. Fourth, one for one hundred and fifty, *no*; Mr. FITZSIMMONS, *aye*. The reasons urged in favor of one for forty were—first, an adherence to public faith; secondly, that the depreciation of the certificates would reduce the rate sufficiently low, they being now negotiated at the rate of three or four for one. The reason for one for seventy-five was—that the bills passed at that rate when they were called in, in the Eastern States; for one for one hundred—that as popular ideas were opposed to the stipulated rate, and as adopting the current rate might hurt the credit of other securities, which derived their value from an opinion that they would be strictly redeemed, it was best to take an arbitrary rate, leaning to the side of liberality; for one for one hundred and fifty—that this was the medium depreciation when the circulation ceased. The opposition to these several rates came from the Southern Delegates, in some of whose States none, in others but little, had been redeemed, and in all of which the depreciation had been much greater. On this side it was observed by Mr. MADISON, that the States which had redeemed a surplus, or even their

quotas, had not done it within the period fixed by Congress, but in the last stages of depreciation, and in a great degree even after the money had ceased to circulate; that since the supposed cessation, the money had generally changed hands at a value far below any rate that had been named; that the principle established by the plan of the eighteenth of March, 1780, with respect to the money in question, was, that the holder of it should receive the value at which it was current, and at which it was presumed he had received it; that a different rule, adopted with regard to the same money in different stages of its downfall, would give general dissatisfaction. The committee adjourned without coming to any decision.

MONDAY, DECEMBER 9TH.

No Congress.

TUESDAY, DECEMBER 10TH.

A motion was made by Mr. RAMSAY, directing the Secretary of War, who was about to visit his family in Massachusetts, to take Vermont in his way, and deliver the resolutions passed a few days since to Mr. Chittenden. For the motion, it was urged that it would ensure the delivery, would have a conciliating effect, and would be the means of obtaining true and certain knowledge of the disposition and views of that people. On the opposite side it was

exclaimed against as a degradation of so high a servant of the United States, as exposing him to the temerity of leaders who were, on good ground, suspected of being hostile to the United States, and as treating their pretensions to sovereignty with greater complaisance than was consistent with the eventual resolutions of Congress. The motion was rejected.

A motion was made by Mr. GILMAN, that a day be assigned for determining finally the affair of Vermont. The opposition made to the motion itself by Rhode Island, and the disagreement as to the day among the friends of the motion, prevented a decision, and it was suffered to lie over.

For the letter of the Superintendent of Finance to Thomas Barclay, Commissioner for settling accounts in Europe, agreed to by Congress, see Secret Journal of this date.

WEDNESDAY, DECEMBER 11TH.

The Secretary of War was authorized to permit the British prisoners to hire themselves out, on condition of a bond from the hirers for their return. The measure was not opposed, but was acquiesced in by some, only as conformable to antecedent principles established by Congress on this subject. Col. HAMILTON in particular made this explanation.

Mr. WILSON made a motion, referring the transmission of the resolutions concerning Vermont to the Secretary of War in such words as left him an option of being the bearer, without the avowed sanction of Congress. The votes of Virginia and

New York negatived it. The President informed Congress, that he should send the resolutions to the Commander-in-Chief to be forwarded.

THURSDAY, DECEMBER 12TH.

The report made by Mr. WILLIAMSON, Mr. CARROLL, and Mr. MADISON, touching the publication in the Boston paper, supposed to be written by Mr. HOWELL, passed with the concurrence of Rhode Island; Mr. HOWELL hesitating, and finally beckoning to his colleague, Mr. COLLINS, who answered for the State in the affirmative. As the report stood, the Executive of Massachusetts, as well as of Rhode Island, was to be written to, the Gazette being printed at Boston. On the motion of Mr. Osgood, who had seen the original publication in the Providence Gazette, and apprehended a constructive imputation on the Massachusetts Delegates by such as would be ignorant of the circumstances, the Executive of Massachusetts was expunged.

FRIDAY, DECEMBER 13TH.

Mr. HOWELL verbally acknowledged himself to be the writer of the letter from which the extract was published in the Providence Gazette. At his instance, the subject was postponed until Monday.

SATURDAY, DECEMBER 14TH.

No Congress.

MONDAY, DECEMBER 16TH.

The answer to the objections of Rhode Island as to the impost, penned by Mr. HOWELL, passed without opposition, eight States being present, of which Rhode Island was one, a few trivial alterations only being made in the course of discussion.

Mr. HOWELL, contrary to expectation, was entirely silent as to his affair.

TUESDAY, DECEMBER 17TH.

Mr. CARROLL, in order to bring on the affair of Mr. HOWELL, moved that the Secretary of Foreign Affairs be instructed not to write to the Government of Rhode Island on the subject. The state in which such a vote would leave the business, unless the reason of it was expressed, being not adverted to by some, and others being unwilling to move in the case, this motion was incautiously suffered to pass. The effect of it, however, was soon observed, and a motion in consequence made by Mr. HAMILTON, to subjoin the words, "Mr. HOWELL having in his place confessed himself to be the author of the publication." Mr. RAMSAY thinking such a stigma on Mr. HOWELL unnecessary, and tending to place him in the light of a persecuted man, whereby his oppo-

sition to the impost might have more weight in his State, proposed to substitute as the reason, "Congress having received the information desired on that subject." The yeas and nays being called for by Mr. HAMILTON, Mr. HOWELL grew very uneasy at the prospect of his name being thereby brought on the Journals; and requested that the subject might be suspended until the day following. This was agreed to, and took place on condition that the *negatived* counter-direction to the Secretary of Foreign Affairs should be reconsidered, and lie over also.

WEDNESDAY, DECEMBER 18TH.

This day was chiefly spent on the case of Mr. HOWELL, whose behaviour was extremely offensive, and led to a determined opposition to him those who were most inclined to spare his reputation. If the affair could have been closed without an insertion of his name on the Journal, he seemed willing to withdraw his protest; but the impropriety which appeared to some, and particularly to Mr. HAMILTON, in suppressing the name of the author of a piece which Congress had so emphatically reprobated, when the author was found to be a member of Congress, prevented a relaxation as to the yeas and nays. Mr. HOWELL, therefore, as his name was necessarily to appear on the Journal, adhered to the motion which inserted his protest thereon. (See the Journal.) The indecency of this paper, and the pertinacity of Mr. HOWELL in adhering to his asser-

tions with respect to the non-failure of any application for foreign loans, excited great and (excepting his colleagues or rather Mr. ARNOLD) universal indignation and astonishment in Congress; and he was repeatedly premonished of the certain ruin in which he would thereby involve his character and consequence; and of the necessity which Congress would be laid under, of vindicating themselves by some act which would expose and condemn him to all the world.

THURSDAY, DECEMBER 19TH.

See Journals.

FRIDAY, DECEMBER 20TH.

A motion was made by Mr. HAMILTON for revising the requisitions of the preceding and present years, in order to reduce them more within the faculties of the States. In support of the motion it was urged, that the exorbitancy of the demands produced a despair of fulfilling them, which benumbed the efforts for that purpose. On the other side, it was alleged that a relaxation of the demand would be followed by a relaxation of the efforts; that unless other resources were substituted, either the States would be deluded by such a measure into false expectations, or, in case the truth should be disclosed to prevent that effect, that the enemy would be encouraged to persevere in the war

against us. The motion meeting with little patronage, it was withdrawn.

The report of the Committee on the motion of Mr. HAMILTON proposed that the *Secretary of Congress* should transmit to the Executive of Rhode Island the several acts of Congress, with a state of foreign loans. The object of the Committee was, that in case Rhode Island should abet or not resent the misconduct of their Representative, as would most likely be the event, Congress should commit themselves as little as possible in the mode of referring it to that State. When the report came under consideration it was observed, that the *President* had always transmitted acts of Congress to the Executives of the States, and that such a change, on the present occasion, might afford a pretext, if not excite a disposition, in Rhode Island not to vindicate the honor of Congress. The matter was compromised by substituting the "*Secretary of Foreign Affairs*, who, *ex officio*, corresponds with the Governors, &c., within whose department the facts to be transmitted, as to foreign loans, lay." No motion or vote opposed the report as it passed.⁴⁸

SATURDAY, DECEMBER 21ST.

The Committee to confer with Mr. LIVINGSTON was appointed the preceding day, in consequence of the unwillingness of several States to elect either General SCHUYLER, Mr. CLYMER, or Mr. READ, the gentlemen previously put into nomination, and of a hint

that Mr. LIVINGSTON might be prevailed on to serve till the spring. The Committee found him in this disposition, and their report was agreed to without opposition. See the Journal.

MONDAY, DECEMBER 23RD.

The motion to strike out the words "accruing to the United States," was grounded on a denial of the principle that a capture and possession by the enemy of moveable property extinguished or affected the title of the owners. On the other side, this principle was asserted as laid down by the best writers, and conformable to the practice of all nations; to which was added, that if a contrary doctrine were established by Congress, innumerable claims would be brought forward by those whose property had, on recapture, been applied to the public use. See Journal.

Letters were this day received from Dr. Franklin, Mr. Jay and the Marquis de la Fayette. They were dated the fourteenth of October. That from the first enclosed a copy of the second commission to Mr. Oswald, with sundry preliminary articles, and distrusted the British Court. That from the second expressed great jealousy of the French Government, and referred to an intercepted letter from Mr. Marbois, opposing the claim of the United States to the fisheries. This despatch produced much indignation against the author of the intercepted letter, and visible emotions in some against

France. It was remarked here that our Ministers took no notice of the distinct commissions to Fitzherbert and Oswald; that although on a supposed intimacy, and joined in the same commission, they, the Ministers, wrote *separately*, and breathed opposite sentiments as to the views of France. Mr. LIVINGSTON told me that the letter of the Count de Vergennes, as read to him by the Chevalier Luzerne, very delicately mentioned and complained that the American Ministers did not, in the negotiations with the British Ministers, maintain the due communication with those of France. Mr. LIVINGSTON inferred, on the whole, that France was sincerely anxious for peace.

The President acquainted Congress that Count Rochambeau had communicated the intended embarkation of the French troops for the West Indies, with an assurance from the King of France, that, in case the war should be renewed, they should immediately be sent back.

TUESDAY, DECEMBER 24TH.

The letter from Mr. Jay, enclosing a copy of the intercepted letter from Marbois, was laid before Congress. The tenor of it, with the comments of Mr. Jay, affected deeply the sentiments of Congress with regard to France. The policy, in particular, manifested by France, of keeping us tractable by leaving the British in possession of posts in this country, awakened strong jealousies, corroborated

the charges on that subject, and with concomitant circumstances may engender the opposite extreme of the gratitude and cordiality now felt towards France; as the closest friends in a rupture are apt to become the bitterest foes. Much will depend, however, on the course pursued by Britain. The liberal one Oswald seems to be pursuing will much promote an alienation of temper in America from France. It is not improbable that the intercepted letter from Marbois came through Oswald's hands. If Great Britain, therefore, yields the fisheries and the back territory, America will feel the obligation to her, not to France, who appears to be illiberal as to the first, and favorable to Spain as to the second, object; and, consequently, has forfeited the confidence of the States interested in either of them. Candor will suggest, however, that the situation of France is and has been extremely perplexing. The object of her blood and money was not only the independence, but the commerce and gratitude of America; the commerce to render independence the more useful, the gratitude to render that commerce the more permanent. It was necessary, therefore, she supposed, that America should be exposed to the cruelties of her enemies, and be made sensible of her own weakness, in order to be grateful to the hand that relieved her. This policy, if discovered, tended, on the other hand, to spoil the whole. Experience shows that her truest policy would have been to relieve America by the most direct and generous means, and to have mingled with them no artifice whatever. With respect to Spain, also, the situation of France has been as peculiarly deli-

cate. The claims and views of Spain and America interfere. The former attempts of Britain to seduce Spain to a separate peace, and the ties of France with the latter, whom she had drawn into the war, required her to favor Spain, at least to a certain degree, at the expense of America. Of this Great Britain is taking advantage. If France adheres to Spain, Great Britain espouses the views of America, and endeavours to draw her off from France. If France adheres to America in her claims, Britain might espouse those of Spain, and produce a breach between her and France; and in either case Britain would divide her enemies. If France acts wisely, she will in this dilemma prefer the friendship of America to that of Spain. If America acts wisely, she will see that she is, with respect to her great interests, more in danger of being seduced by Britain than sacrificed by France.

The deputation to Rhode Island had set out on the twenty-second, and proceeded half-a-day's journey. Mr. NASH casually mentioned a private letter from Mr. Pendleton to Mr. MADISON, informing him that the Legislature of Virginia had, in consequence of the final refusal of Rhode Island, repealed her law for the impost. As this circumstance, if true, destroyed, in the opinion of the deputies, the chief argument to be used by them, viz: the unanimity of the other States, they determined to return and wait for the southern post, to know the truth of it. The post failing to arrive on the twenty-third, the usual day, the deputies on this day came into Congress and stated the case. Mr. MADISON read to Congress the paragraph in the letter from Mr. Pen-

dleton. Congress verbally resolved, that the departure of the deputies for Rhode Island should be suspended until the further order of Congress; Mr. MADISON promising to give any information he might receive by the post. The arrival of the post immediately ensued. A letter to Mr. MADISON from Mr. Randolph confirmed the fact, and was communicated to Congress. The most intelligent members were deeply affected, and prognosticated a failure of the impost scheme, and the most pernicious effects to the character, the duration, and the interests of the Confederacy. It was at length, notwithstanding, determined to persist in the attempt for permanent revenue, and a committee was appointed to report the steps proper to be taken.

A motion was made by Mr. RUTLEDGE to strike out the salvage for recaptures on land, on the same principle as he did the words "accruing to the United States." As the latter had been retained by barely seven States, and one of these was not present, the motion of Mr. RUTLEDGE succeeded. Some of those who were on the other side, in consequence, voted against the whole resolution, and it failed. By compromise it passed as reported by the Committee.

The Grand Committee reported, after another meeting, with respect to the old money, that it should be rated at forty for one. The Chair decided, on a question raised, that according to rule the blank should not have been filled up by the Committee; so the rate was expunged.

From Tuesday, the twenty-fourth of December, the Journals suffice until—

MONDAY, DECEMBER 30TH.

A motion was made by Mr. CLARK, seconded by Mr. RUTLEDGE, to revise the instructions relative to negotiations for peace, with a view to exempt the American Plenipotentiaries from the obligation to conform to the advice of France. This motion was the effect of impressions left by Mr. Jay's letters, and the intercepted one from Marbois. This evidence of separate views in our Ally, and the inconsistency of that instruction with our national dignity, were urged in support of the motion. In opposing the motion, many considerations were suggested, and the original expediency of submitting the commission for peace to the counsels of France descanted upon. The reasons assigned for this expediency were, that at the juncture when that measure took place the American affairs were in the most deplorable situation, the Southern States being overrun and exhausted by the enemy, and the others more inclined to repose after their own fatigues than to exert their resources for the relief of those which were the seat of the war; that the old paper currency had failed, and with it public credit itself, to such a degree that no new currency could be substituted; and that there was then no prospect of introducing specie for the purpose, our trade being in the most ruinous condition, and the intercourse with the Havana in particular unopened. In the midst of these distresses, the mediation of the two Imperial Courts

was announced. The general idea was, that the two most respectable powers of Europe would not interpose without a serious desire of peace, and without the energy requisite to effect it. The hope of peace was, therefore, mingled with an apprehension that considerable concessions might be exacted from America by the mediators, as a compensation for the essential one which Great Britain was to submit to. Congress, on a trial, found it impossible, from the diversity of opinions and interests, to define any other claims than those of independence and the alliance. A discretionary power, therefore, was to be delegated with regard to all other claims. Mr. ADAMS was the sole minister for peace; he was personally at variance with the French Ministry; his judgment had not the confidence of some, nor his partiality in case of an interference of claims espoused by different quarters of the United States, the confidence of others; a motion to associate with him two colleagues, to wit, Mr. Franklin and Mr. Jay, had been disagreed to by Congress; the former of these being interested as one of the land companies in territorial claims, which had less chance of being made good in any other way than by a repossession of the vacant country by the British Crown; the latter belonging to a State interested in such arrangements as would deprive the United States of the navigation of the Mississippi, and turn the western trade through New York; and neither of them being connected with the Southern States. The idea of having five ministers taken from the whole Union was not suggested until the measure had been adopted, and communicated to the Cheva-

lier de Luzerne to be forwarded to France, when it was too late to revoke it. It was supposed also that Mr. Laurens, then in the Tower, would not be out, and that Mr. Jefferson would not go; and that the greater the number of ministers, the greater the danger of discords and indiscretions. It was added, that as it was expected that nothing would be yielded by Great Britain which was not extorted by the address of France in managing the mediators, and as it was the intention of Congress that their minister should not oppose a peace, recommended by them, and approved by France, it was thought good policy to make the declaration to France, and by such a mark of confidence to render her friendship the more responsible for the issue. At the worst, it could only be considered as a sacrifice of our pride to our interest.

These considerations still justified the original measure in the view of the members who were present and voted for it. All the new members who had not participated in the impressions which dictated it, and viewed the subject only under circumstances of an opposite nature, disapproved it. In general, however, the latter joined with the former in opposing the motion of Mr. CLARK, arguing with them that, supposing the instruction to be wrong, it was less dishonorable than the instability that would be denoted by rescinding it; that if Great Britain was disposed to give us what we claimed, France could not prevent it; that if Great Britain struggled against those claims, our only chance of getting them was through the aid of France; that to withdraw our confidence would lessen the chance

and degree of this aid; that if we were in a prosperous or safe condition, compared with that in which we adopted the expedient in question, this change had been effected by the friendly succours of our Ally, and that to take advantage of it to loosen the tie would not only bring on us the reproach of ingratitude, but induce France to believe that she had no hold on our affections, but only in our necessities; that in all possible situations we should be more in danger of being seduced by Great Britain, than of being sacrificed by France; the interests of the latter, in the main, necessarily coinciding with ours, and those of the former being diametrically opposed to them; that as to the intercepted letter, there were many reasons which indicated that it came through the hands of the enemy to Mr. Jay; that it ought, therefore, to be regarded, even if genuine, as communicated for insidious purposes; but that there was strong reason to suspect that it had been adulterated, if not forged; and that on the worst supposition, it did not appear that the doctrines maintained, or the measures recommended in it, had been adopted by the French Ministry, and consequently that they ought not to be held responsible for them.

Upon these considerations it was proposed by Mr. WOLCOTT, seconded by Mr. HAMILTON, that the motion of Mr. CLARK should be postponed, which took place without a vote.⁴⁹

Mr. MADISON moved that the letter of Dr. Franklin, of the fourteenth of October, 1782, should be referred to a committee, with a view of bringing into consideration the preliminary article proposing that

British subjects and American citizens should reciprocally have, in matters of commerce, the privilege of natives of the other party; and giving the American Ministers the instruction which ensued on that subject. This motion succeeded, and the committee appointed consisted of Mr. MADISON, Mr. RUTLEDGE, Mr. CLARK, Mr. HAMILTON, and Mr. OSGOOD.

The contract of General Wayne was confirmed with great reluctance; being considered as improper with respect to its being made with individuals, as admitting of infinite abuses, as out of his military line, and as founded on a principle that a present commerce with Great Britain was favorable to the United States—a principle reprobated by Congress and all the States. Congress, however, supposed that these considerations ought to yield to the necessity of supporting the measures which a valuable officer, from good motives, had taken upon himself.

TUESDAY, DECEMBER 31ST.

The report of the Committee made in consequence of Mr. MADISON's motion yesterday, instructing the Ministers Plenipotentiary on the article of commerce, passed unanimously, as follows:

“Resolved, That the Ministers Plenipotentiary for negotiating peace be instructed, in any commercial stipulations with Great Britain which may be comprehended in a treaty of peace, to endeavour to obtain for the citizens and inhabitants of the United States a direct commerce to all parts of the British dominions and possessions, in like manner as all parts of

the United States may be opened to a direct commerce of British subjects; or at least that such direct commerce be extended to all parts of the British dominions and possessions in Europe and the West Indies; and the said Ministers are informed, that this stipulation will be particularly expected by Congress, in case the citizens and subjects of each party are to be admitted to an equality in matters of commerce with natives of the other party."

WEDNESDAY, JANUARY 1ST, 1783.

The decision of the controversy between Connecticut and Pennsylvania was reported.

The communications made from the Minister of France concurred, with other circumstances, in effacing the impressions made by Mr. Jay's letter and Marbois's enclosed. The vote of thanks to Count Rochambeau passed with unanimity and cordiality, and afforded a fresh proof that the resentment against France had greatly subsided.

THURSDAY, JANUARY 2ND.

Nothing requiring notice.

FRIDAY, JANUARY 3RD.

The vote of thanks to the Minister of France, which passed yesterday, was repealed in conse-

quence of his having expressed to the President a desire that no notice might be taken of his conduct as to the point in question, and of the latter's communicating the same to Congress. The temper of Congress here again manifested the transient nature of their irritation against France.

The motion of Mr. HOWELL, put on the Secret Journal, gave Congress a great deal of vexation. The expedient for baffling his scheme of raising a ferment in his State, and exposing the foreign transactions, was adopted only in the last resort; it being questioned by some whether the Articles of Confederation warranted it.

The answer to the note of the French Minister passed unanimously, and was a further testimony of the abatement of the effects of Mr. Jay's letter, &c.

The proceedings of the Court in the dispute between Connecticut and Pennsylvania were, after debates as to the meaning of the Confederation in directing such proceeding to be lodged among the acts of Congress, entered at large on the Journals. It was remarked that the Delegates from Connecticut, particularly Mr. DYER, were more captious on the occasion than was consistent with a perfect acquiescence in the decree.

MONDAY, JANUARY 6TH.

The memorial from the Army was laid before Congress, and referred to a Grand Committee. This reference was intended as a mark of the important light in which the memorial was viewed.

Mr. Berkley having represented some inconveniences incident to the plan of a Consular Convention between France and the United States, particularly the restriction of Consuls from trading, and his letter having been committed, a report was made proposing that the Convention should for the present be suspended. To this it had been objected, that, as the Convention might already be concluded, such a step was improper; and as the end might be obtained by authorizing the Minister at Versailles to propose particular alterations, that it was unnecessary. By Mr. MADISON it had been moved, that the report should be postponed, to make place for the consideration of an instruction and authority to the said Minister for that purpose; and this motion had, in consequence, been brought before Congress. On this day the business revived. The sentiments of the members were various, some wishing to suspend such part of the Convention only as excluded Consuls from commerce; others thought this exclusion too important to be even suspended; others, again, thought the whole ought to be suspended during the war; and others, lastly, contended that the whole ought to be new modelled, the Consuls having too many privileges in some respects, and too little power in others. It was observable that this diversity of opinions prevailed chiefly among the members who had come in since the Convention had been passed in Congress; the members originally present adhering to the views which then governed them. The subject was finally postponed; eight States only being represented, and nine being requisite for such a question. Even to have suspended the Convention,

after it had been proposed to the Court of France, and possibly acceded to, would have been indecent and dishonorable; and at a juncture when Great Britain was courting a commercial intimacy, to the probable uneasiness of France, of very mischievous tendency. But experience constantly teaches that new members of a public body do not feel the necessary respect or responsibility for the acts of their predecessors, and that a change of members and of *circumstances* often proves fatal to consistency and stability of public measures. Some conversation, in private, by the old members with the most judicious of the new, in this instance, has abated the fondness of the latter for innovations, and it is even problematical whether they will be again urged.

In the evening of this day the Grand Committee met, and agreed to meet again the succeeding evening, for the purpose of a conference with the Superintendent of Finance.

TUESDAY, JANUARY 7TH.

See the Journals.

In the evening the Grand Committee had the assigned conference with Mr. Morris, who informed them explicitly that it was impossible to make any advance of pay, in the present state of the finances, to the army, and imprudent to give any assurances with respect to future pay, until certain funds should be previously established. He observed that even if an advance could be made, it would be unhappy

that it should appear to be the effect of demands from the army; as this precedent could not fail to inspire a distrust of the spontaneous justice of Congress, and to produce repetitions of the expedient. He said that he had taken some measures with a view to a payment for the army, which depended on events not within our command; that he had communicated these measures to General Washington under an injunction of secrecy; that he could not yet disclose them without endangering their success; that the situation of our affairs within his department was so alarming, that he had thoughts of asking Congress to appoint a Confidential Committee to receive communications on that subject, and to sanctify, by their advice, such steps as ought to be taken. Much loose conversation passed on the critical state of things, the defect of a permanent revenue, and the consequences to be apprehended from a disappointment of the mission from the army; which ended in the appointment of Friday evening next for an audience to General McDougall, Col. Brooks and Col. Ogden, the Deputies on the subject of the memorial; the Superintendent to be present.

WEDNESDAY, JANUARY 8TH, THURSDAY, JANUARY 9TH,
and FRIDAY, JANUARY 10TH.

On the Report* for valuing the land conformably to the rule laid down in the Federal Articles, the Delegates from Connecticut contended for postponing

* This proposed to require the States to value the land, and return the valuations to Congress.

the subject during the war, alleging the impediments arising from the possession of New York, &c., by the enemy; but apprehending, as was supposed, that the flourishing State of Connecticut, compared with the Southern States, would render a valuation, at this crisis, unfavorable to the former. Others, particularly Mr. HAMILTON and Mr. MADISON, were of opinion that the rule of the Confederation was a chimerical one, since, if the intervention of the individual States were employed, their interests would give a bias to their judgments, or that at least suspicions of such bias would prevail; and, without their intervention, it could not be executed but at an expense, delay, and uncertainty, which were inadmissible; that it would perhaps be, therefore, preferable to represent these difficulties to the States, and recommend an exchange of this rule of dividing the public burdens for one more simple, easy, and equal. The Delegates from South Carolina generally, and particularly Mr. RUTLEDGE, advocated the propriety of the constitutional rule, and of an adherence to it, and of the safety of the mode in question arising from the honor of the States. The debates on the subject were interrupted by a letter from the Superintendent of Finance, informing Congress that the situation of his Department required that a committee should be appointed, with power to advise him on the steps proper to be taken; and suggesting an appointment of one, consisting of a member from each State, with authority to give their advice on the subject. This expedient was objected to as improper, since Congress would thereby delegate an incommunicable power, perhaps, and would, at any

rate, lend a sanction to a measure without even knowing what it was, not to mention the distrust which it manifested of their own prudence and fidelity. It was, at length, proposed and agreed to, that a special committee, consisting of Mr. RUTLEDGE, Mr. OSGOOD, and Mr. MADISON, should confer with the Superintendent of Finance on the subject of his letter, and make report to Congress. After the adjournment of Congress this Committee conferred with the Superintendent; who, after being apprized of the difficulties which had arisen in Congress, stated to them that the last account of our money affairs in Europe showed that, contrary to his expectations and estimates, there were three and a half millions of livres short of the bills actually drawn; that further drafts were indispensable to prevent a stop to the public service; that to make good this deficiency there was only the further success of Mr. Adams' loan, and the friendship of France, to depend on; that it was necessary for him to decide on the expediency of his staking the public credit on those contingent funds by further drafts; and that, in making this decision, he wished for the sanction of a committee of Congress; that this sanction was preferable to that of Congress itself only, as it would confide the risk attending bills drawn on such funds to a smaller number, and as secrecy was essential in the operation, as well to guard our affairs in general from injury, as the credit of the bills in question from debasement. It was supposed, both by the Superintendent and the Committee, that there was, in fact, little danger of bills drawn on France on the credit of the loan of four millions of dollars applied

for, being dishonored; since, if the negotiations on foot were to terminate in peace, France would prefer an advance in our favor to exposing us to the necessity of resorting to Great Britain for it; and that if the war should continue, the necessity of such an aid to its prosecution would prevail. The result was, that the Committee should make such report as would bring the matter before Congress under an injunction of secrecy, and produce a resolution authorizing the Superintendent to draw bills, as the public service might require, on the credit of applications for loans in Europe. The Report of the Committee to this effect was, accordingly, the next day made and adopted unanimously. Mr. DYER alone at first opposed it, as an unwarrantable and dishonorable presumption on the ability and disposition of France; being answered, however, that without such a step, or some other expedient, which neither he nor any other had suggested, our credit would be stabbed abroad, and the public service wrecked at home; and that, however mortifying it might be to commit our credit, our faith, and our honor, to the mercy of a foreign nation, it was a mortification which could not be avoided without endangering our very existence; he acquiesced, and the resolution was entered unanimously. The circumstance of unanimity was thought of consequence, as it would evince the more the necessity of the succour, and induce France the more readily to yield it. On this occasion several members were struck with the impropriety of the late attempt to withdraw from France the trust confided to her over the terms of peace, when we were under the necessity of giving so decisive a proof of our depen-

dence on her. It was also adverted to, in private conversation, as a great unhappiness, that during negotiations for peace, when an appearance of vigor and resource were so desirable, such a proof of our poverty and imbecility could not be avoided.

The conduct of Mr. HOWELL, &c., had led several, and particularly Mr. PETERS, into an opinion that some further rule and security ought to be provided for concealing matters of a secret nature. On the motion of Mr. PETERS, a committee, composed of himself, Mr. WILLIAMSON, &c., was appointed to make a report on the subject. On this day the report was made. It proposed that members of Congress should each subscribe an instrument pledging their faith and honor not to disclose certain enumerated matters.

The enumeration being very indistinct and objectionable, and a written engagement being held insufficient with those who without it would violate prudence or honor, as well as marking a general distrust of the prudence and honor of Congress, the report was generally disrelished; and after some debate, in which it was faintly supported by Mr. WILLIAMSON, the Committee asked and obtained leave to withdraw it.

A discussion of the report on the mode of valuing the lands was revived. It consisted chiefly of a repetition of the former debates.

In the evening, according to appointment on Tuesday last, the Grand Committee met, as did the Superintendent of Finance. The Chairman, Mr. WOLCOTT, informed the committee, that Colonels Ogden and Brooks, two of the deputies from the army, had given him notice that General McDougall,

the first of the deputation, was so indisposed with the rheumatism as to be unable to attend, and expressed a desire that the Committee would adjourn to his lodging at the Indian Queen tavern; the deputies being very anxious to finish their business, among other reasons, on account of the scarcity of money with them. At first the Committee seemed disposed to comply; but it being suggested, that such an adjournment by a committee of a member from each State would be derogatory from the respect due to themselves, especially as the mission from the army was not within the ordinary course of duty, the idea was dropped. In lieu of it, they adjourned to Monday evening next, on the ostensible reason of the extreme badness of the weather, which had prevented the attendance of several members.

MONDAY, JANUARY 13TH.

The report on the valuation of land was referred to a Grand Committee.

A motion was made by Mr. PETERS, seconded by Mr. MADISON, "that a committee be appointed to consider the expediency of making further applications for loans in Europe, and to confer with the Superintendent of Finance on the subject." In support of this motion Mr. PETERS observed, that notwithstanding the uncertainty of success, the risk of appearing unreasonable in our demands on France, and the general objections against indebteding the United States to foreign nations, the crisis of our affairs demanded the experiment; that money must,

if possible, be procured for the army, and there was ground to expect that the Court of France would be influenced by an apprehension that, in case of her failure, and of a pacification, Great Britain might embrace the opportunity of substituting her favors. Mr. MADISON added, that it was expedient to make the trial, because, if it failed, our situation could not be made worse; that it would be prudent in France, and therefore it might be expected of her, to afford the United States such supplies as would enable them to disband their army in tranquillity; lest some internal convulsions might follow external peace, the issue of which ought not to be hazarded; that as the affections and gratitude of this country, as well as its separation from Great Britain, were her objects in the Revolution, it would also be incumbent on her to let the army be disbanded under the impression of deriving their rewards through her friendship to their country; since their temper on their dispersion through the several States, and being mingled in the public councils, would much affect the general temper towards France; and that, if the pay of the army could be converted into a consolidated debt bearing interest, the requisitions on the States for the principal might be reduced to requisitions for the interest, and by that means a favorable revolution so far introduced into our finances.

The motion was opposed by Mr. DYER, because it was improper to augment our foreign debts, and would appear extravagant to France. Several others assented to it with reluctance, and several others expressed serious scruples as honest men

against levying contributions on the friendship or fears of France or others, whilst the unwillingness of the States to invest Congress with permanent funds rendered a repayment so precarious. The motion was agreed to, and the Committee chosen—Mr. GORHAM, Mr. PETERS, and Mr. IZARD.

In the evening, according to appointment, the Grand Committee gave an audience to the deputies of the army, viz: General McDougall and Colonels Ogden and Brooks. The first introduced the subject by acknowledging the attention manifested to the representations of the army by the appointment of so large a Committee; his observations turned chiefly on the three chief topics of the memorial—namely, an immediate advance of pay, adequate provision for the residue, and half-pay. On the first, he insisted on the absolute necessity of the measure to soothe the discontents both of the officers and soldiers; painted their sufferings and services, their successive hopes and disappointments throughout the whole war, in very high-colored expressions; and signified that if a disappointment were now repeated, the most serious consequences were to be apprehended; that nothing less than the actual distresses of the army would have induced, at this crisis, so solemn an application to their country; but the seeming approach of peace, and the fear of being still more neglected when the necessity of their services should be over, strongly urged the necessity of it. His two colleagues followed him with a recital of various incidents and circumstances tending to evince the actual distresses of the army, the irritable state in which the deputies left them, and the neces-

sity of the consoling influence of an immediate advance of pay. Colonel Ogden said, he wished not, indeed, to return to the army, if he was to be the messenger of disappointment to them. The deputies were asked, first, what particular steps they supposed would be taken by the army in case no pay could be immediately advanced; to which they answered, that it was impossible to say precisely; that although the sergeants, and some of the most intelligent privates, had been often observed in sequestered consultations, yet it was not known that any premeditated plan had been formed; that there was sufficient reason to dread that at least a mutiny would ensue, and the rather as the temper of the officers, at least those of inferior grades, would with less vigor than heretofore struggle against it. They remarked, on this occasion, that the situation of the officers was rendered extremely delicate, and had been sorely felt, when called upon to punish in soldiers a breach of engagements to the public, which had been preceded by uniform and flagrant breaches by the latter of its engagements to the former. General McDougall said, that the army were verging to that state, which, we are told, will make a wise man mad; and Colonel Brooks said, that his apprehensions were drawn from the circumstance that the temper of the army was such, that they did not reason or deliberate coolly on consequences, and, therefore, a disappointment might throw them blindly into extremities. They observed, that the irritations of the army had resulted, in part, from the distinctions made between the civil and military lists, the former regularly receiving their salaries,

and the latter as regularly left unpaid. They mentioned, in particular, that the members of the Legislatures would never agree to an adjournment without paying themselves fully for their services. In answer to this remark it was observed, that the civil officers, on the average, did not derive from their appointments more than the means of their subsistence; and that the military, although not furnished with their pay properly so called, were in fact furnished with the same necessaries.

On the second point, to wit, "adequate provision for the general arrears due to them," the deputies animadverted with surprise, and even indignation, on the repugnance of the States, some of them at least, to establish a federal revenue for discharging the federal engagements. They supposed that the ease, not to say affluence, with which the people at large lived, sufficiently indicated resources far beyond the actual exertions; and that if a proper application of these resources was omitted by the country, and the army thereby exposed to unnecessary sufferings, it must naturally be expected that the patience of the latter would have its limits. As the deputies were sensible that the general disposition of Congress strongly favored this object, they were less diffuse on it. General McDougall made a remark which may deserve the greater attention, as he stepped from the tenor of his discourse to introduce it, and delivered it with peculiar emphasis. He said that the most intelligent and considerate part of the army were deeply affected at the debility and defects in the Federal Government, and the unwillingness of the States to cement and invigorate it, as, in case of

its dissolution, the benefits expected from the Revolution would be greatly impaired; and as, in particular, the contests which might ensue among the States would be sure to embroil the officers which respectively belonged to them.

On the third point, to wit, "half-pay for life," they expressed equal dissatisfaction at the States which opposed it, observing that it formed a part of the wages stipulated to them by Congress, and was but a reasonable provision for the remnant of their lives, which had been freely exposed in the defence of their country, and would be incompatible with a return to occupations and professions for which military habits, of seven years standing, unfitted them. They complained that this part of their reward had been industriously and artfully stigmatized in many States with the name of pension, although it was as reasonable that those who had lent their blood and services to the public should receive an annuity thereon, as those who had lent their money; and that the officers, whom new arrangements had, from time to time, excluded, actually labored under the opprobrium of pensioners, with the additional mortification of not receiving a shilling of the emoluments. They referred, however, to their memorial to show that they were authorized and ready to commute their half-pay for any equivalent and less exceptionable provision.

After the departure of the Deputies, the Grand Committee appointed a sub-committee, consisting of Mr. HAMILTON, Mr. MADISON, and Mr. RUTLEDGE, to report arrangements, in concert with the Superintendent of Finance, for their consideration.

TUESDAY, JANUARY 14TH.

Congress adjourned for the meeting of the Grand Committee, to whom was referred the Report concerning the valuation of the lands, and who accordingly met.

The Committee were, in general, strongly impressed with the extreme difficulty and inequality, if not impracticability, of fulfilling the Article of the Confederation relative to this point; Mr. RUTLEDGE, however, excepted, who, although he did not think the rule so good a one as a census of inhabitants, thought it less impracticable than the other members. And if the valuation of land had not been prescribed by the Federal Articles, the Committee would certainly have preferred some other rule of appointment, particularly that of numbers, under certain qualifications as to slaves. As the Federal Constitution, however, left no option, and a few* only were disposed to recommend to the States an alteration of it, it was necessary to proceed, first, to settle its meaning; secondly, to settle the least objectionable mode of valuation. On the first point it was doubted, by several members, whether the returns which the report under consideration required from the States would not be final, and whether the Articles of Confederation would allow Congress to alter them after they had fixed on this mode; on this point no vote was taken. A second question, afterwards raised

* Mr. HAMILTON was most strenuous on this point. Mr. WILSON also favored the idea. Mr. MADISON also, but restrained, in some measure, by the declared sense of Virginia. Mr. GORHAM, and several others also, but wishing previous experience.

in the course of the discussion, was, how far the Articles required a specific valuation, and how far it gave a latitude as to the mode; on this point, also, there was a diversity of opinions, but no vote taken.

Secondly, as to the mode itself referred to the Grand Committee, it was strongly objected to by the Delegate from Connecticut, Mr. DYER, by Mr. HAMILTON, by Mr. WILSON, by Mr. CARROLL, and by Mr. MADISON, as leaving the States too much to the bias of interest, as well as too uncertain and tedious in the execution. In favor of the Report was Mr. RUTLEDGE, the father of it, who thought the honor of the States, and their mutual confidence, a sufficient security against frauds and the suspicion of them. Mr. GORHAM favored the Report also, as the least impracticable mode, and as it was necessary to attempt at least some compliance with the federal rule before any attempt could be properly made to vary it. An opinion entertained by Massachusetts, that she was comparatively in advance to the United States, made her anxious for a speedy settlement of the mode by which a final apportionment of the common burden could be effected. The sentiments of the other members of the Committee were not expressed.

Mr. HAMILTON proposed, in lieu of a reference of the valuation to the States, to class the lands throughout the United States under distinctive descriptions, viz: arable, pasture, wood, &c., and to annex a uniform rate to the several classes according to their different comparative value, calling on the States only for a return of the quantities and descriptions. This mode would have been acceptable to the more com-

pact and populous States, but was totally inadmissible to the Southern States.

Mr. WILSON proposed, that returns of the quantity of land and of the number of inhabitants in the respective States should be obtained, and a rule deduced from the combination of these data. This also would have affected the States in a similar manner with the proposition of Mr. HAMILTON. On the part of the Southern States it was observed, that, besides its being at variance with the text of the Confederation, it would work great injustice, as would every mode which admitted the quantity of lands within the States into the measure of their comparative wealth and abilities.

Lastly, it was proposed by Mr. MADISON, that a valuation should be attempted by Congress without the intervention of the States. He observed, that as the expense attending the operation would come ultimately from the same pockets, it was not very material whether it was borne in the first instance by Congress or the States, and it at least deserved consideration whether this mode was not preferable to the proposed reference to the States.

The conversation ended in the appointment of a sub-committee, consisting of Mr. MADISON, Mr. CARROLL and Mr. WILSON, who were desired to consider the several modes proposed, to confer with the Superintendent of Finance, and make such report to the Grand Committee as they should judge fit.

WEDNESDAY, JANUARY 15TH.

A letter, dated the nineteenth of December, from General Greene, was received, notifying the evacuation of Charleston. It was, in the first place, referred to the Secretary of Congress for publication; excepting the passage which recited the exchange of prisoners, which, being contrary to the resolution of the sixteenth of October against partial exchanges, was deemed improper for publication. It was in the next place referred to a committee, in order that some complimentary report might be made in favor of General Greene and the Southern army. Dr. RAMSAY, having come in after this reference, and being uninformed of it, moved that a committee might be appointed to devise a proper mode of expressing to General Greene the high sense entertained by Congress of his merits and services. In support of his motion, he went into lavish praises of General Greene, and threw out the idea of making him a Lieutenant General. His motion being opposed as somewhat singular and unnecessary after the reference of General Greene's letter, he withdrew it.

A letter was received from General Washington enclosing a certificate from Mr. Chittenden, of Vermont, acknowledging the receipt of the communication which General Washington had sent him of the proceedings of Congress on the fifth of December.

THURSDAY, JANUARY 16TH.

Mr. RUTLEDGE informed Congress, that there was reason to apprehend that the train of negotiation in Europe had been so misrepresented in the State of South Carolina, as to make it probable that an attempt might be made in the Legislature to repeal the confiscation laws of that State; and even if such attempt should fail, the misrepresentations could not fail to injure the sale of property confiscated in that State. In order, therefore, to frustrate these misrepresentations, he moved that the Delegates of South Carolina might be furnished with an extract from the letter of the fourteenth of October from Dr. Franklin, so far as it informed Congress "that something had been mentioned to the American Plenipotentiaries relative to the refugees and to English debts, but not insisted on; it being answered, on their part, that this was a matter belonging to the individual States, and on which Congress could enter into no stipulations." The motion was seconded by Mr. GERVAIS, and supported by Mr. RAMSAY. It was opposed by Mr. ELLSWORTH and Mr. WOLCOTT as improper, since a communication of this intelligence might encourage the States to extend confiscations to British debts,—a circumstance which would be dishonorable to the United States, and might embarrass a treaty of peace. Mr. FITZSIMMONS expressed the same apprehensions; so did Mr. GORHAM. His colleague, Mr. OSGOOD, was in favor of the motion. By Mr. MADISON the motion was so enlarged and varied as "to leave *all* the

Delegates at liberty to communicate the extract to their constituents, in such form and under such cautions as they should judge prudent." The motion so varied was adopted by Mr. RUTLEDGE, and substituted in place of the original one. It was, however, still opposed by the opponents of the original motion. Mr. MADISON observed, that as all the States had espoused, in some degree, the doctrine of confiscations, and as some of them had given instructions to their Delegates on the subject, it was the duty of Congress, without inquiring into the expediency of confiscations, to prevent as far as they could any measures which might impede that object in negotiations for peace, by inducing an opinion that the United States were not firm with respect to it; that in this view it was of consequence to prevent the repeal, and even the attempt of a repeal, of the confiscation law of one of the States; and that if a confidential communication of the extract in question would answer such a purpose, it was improper for Congress to oppose it. On a question, the motion was negatived, Congress being much divided thereon. Several of those who were in the negative were willing that the Delegates of South Carolina should be licensed to transmit to their State what related to the refugees, omitting what related to British debts, and invited Mr. RUTLEDGE to renew his motion in that qualified form. Others suggested the propriety of his contradicting the misrepresentations in general, without referring to any official information received by Congress. Mr. RUTLEDGE said he would think further on the subject, and desired that it might lie over.

FRIDAY, JANUARY 17TH.

The Committee on the motion of Mr. PETERS, of the thirteenth instant, relative to a further application for foreign loans, reported that they had conferred with the Superintendent of Finance, and concurred in opinion with him, that the applications already on foot were as great as could be made prudently, until proper funds should be established. The latent view of this report was to strengthen the argument in favor of such funds, and the report, it was agreed, should lie on the table, to be considered along with the report which might be made on the memorial from the army, and which would involve the same subject.⁵⁰

The report thanking General Greene for his services was agreed to without opposition or observation. Several, however, thought it badly composed, and that some notice ought to have been taken of Major Burnet, Aid to General Greene, who was the bearer of the letter announcing the evacuation of Charleston.

Mr. Webster and Mr. Judd; agents for the deranged officers of the Massachusetts and Connecticut lines, were heard by the Grand Committee in favor of their constituents. The sum of their representations was, that the said officers were equally distressed for, entitled to, and in expectation of, provision for fulfilling the rewards stipulated to them as officers retained in service.

FROM FRIDAY, 17TH, TO TUESDAY, 21ST.

See Journals.

A letter from Mr. Adams, of the eighth day of October, 1782, containing prophetic observations relative to the expedition of Lord Howe for the relief of Gibraltar and its consequences, &c. &c., excited, &c. &c.

Another letter from the same, relative to the Treaty of Amity and Commerce, and the Convention with the States General concerning vessels recaptured, copies of which accompanied the letters. These papers were committed to Mr. MADISON, Mr. HAMILTON, and Mr. ELLSWORTH.⁵¹

WEDNESDAY, JANUARY 22ND.

Congress adjourned to give the Committee on the Treaty and Convention time to prepare a report thereon.

THURSDAY, JANUARY 23RD.

The report of the Committee last mentioned—consisting of a state of the variations, in the Treaty of Amity and Commerce with the States General, from the plan proposed by Congress, of a form of ratification of the said Treaty and of the Convention, and of a proclamation comprehending both—was accepted

and passed; the variations excepted, which were not meant to be entered on the Journals. Both the Committee and Congress were exceedingly chagrined at the extreme incorrectness of the American copies of these national acts, and it was privately talked of as necessary to admonish Mr. Adams thereof, and direct him to procure, with the concurrence of the other party, a more correct and perspicuous copy. The report of the Committee, as agreed to, having left a blank in the act of ratification for the insertion of the Treaty and Convention, and these being contained both in the Dutch and American languages—the former column signed by the Dutch Plenipotentiaries only, and the latter by Mr. Adams only—the Secretary asked the direction of Congress whether both columns, or the American only, ought to be inserted. On this point several observations were made, and different opinions expressed. In general, the members seemed to disapprove of the mode used, and would have preferred the use of a neutral language. As to the request of the Secretary, Mr. WILSON was of opinion that the American columns only should be inserted. Several others concurred in this opinion; supposing that as Mr. Adams had only signed those columns, our ratifications ought to be limited to them. Those who were of a different opinion considered the two parts as inseparable, and as forming one whole, and consequently that both ought to be inserted. The case being a new one to Congress, it was proposed and admitted that the insertion might be suspended till the next day, by which time some authorities might be consulted on the subject.

A committee, consisting of Mr. MADISON, Mr. MIFFLIN, and Mr. WILLIAMSON, reported, in consequence of a motion of Mr. BLAND, a list of books proper for the use of Congress, and proposed that the Secretary should be instructed to procure the same. In favor of the report it was urged as indispensable, that Congress should have at all times at command such authors on the law of nations, treaties, negotiations, &c., as would render their proceedings in such cases conformable to propriety; and it was observed, that the want of this information was manifest in several important acts of Congress. It was further observed, that no time ought to be lost in collecting every book and tract which related to American antiquities and the affairs of the United States, since many of the most valuable of these were every day becoming extinct; and they were necessary, not only as materials for a History of the United States, but might be rendered still more so by future pretensions against their rights from Spain, or other powers which had shared in the discoveries and possessions of the New World. Against the report were urged, first, the inconvenience of advancing even a few hundred pounds at this crisis; secondly, the difference of expense between procuring the books during the war and after a peace. These objections prevailed by a considerable majority. A motion was then made by Mr. WILSON, seconded by Mr. MADISON, to confine the purchase, for the present, to the most essential part of the books. This also was negatived.

FRIDAY, JANUARY 24TH.

Some days prior to this, sundry papers had been laid before Congress by the War Office, showing that a cargo of supplies which had arrived at Wilmington for the British and German prisoners of war, under a passport from the Commander-in-Chief, and which were thence proceeding by land to their destination, had been seized by sundry persons in Chester county, under a law of Pennsylvania, which required in such cases a license from the Executive authority, who exposed to confiscation all articles not *necessary* for the prisoners, and referred the question of necessity to the judgment of its own magistrates. Congress unanimously considered the violation of the passport, issued under their authority, as an encroachment on their constitutional and essential rights; but, being disposed to get over the difficulty as gently as possible, appointed a Committee, consisting of Mr. RUTLEDGE, Mr. WOLCOTT, and Mr. MADISON, to confer with the Executive of Pennsylvania on the subject. In the first conference, the Executive represented to the Committee the concern they felt at the incident, their disposition to respect and support the dignity and rights of the Federal Sovereignty, and the embarrassments in which they were involved by a recent and express law of the State to which they were bound to conform. The Committee observed to them, that the power of granting passports for the purpose in question being inseparable from the general power of war delegated to Congress, and being essential

for conducting the war, it could not be expected that Congress would acquiesce in any infractions upon it; that as Pennsylvania had concurred in the alienation of this power to Congress, any law whatever contravening it was necessarily void, and could impose no obligation on the Executive. The latter requested further time for a consideration of the case, and laid it before the Legislature then sitting; in consequence of which a Committee of their body was appointed, jointly with the Executive, to confer with the Committee of Congress. In this second conference the first remarks made by the Committee of Congress were repeated. The Committee of the Legislature expressed an unwillingness to entrench on the jurisdiction of Congress, but some of them seemed not to be fully satisfied that the law of the State did so. Mr. Montgomery, lately a member of Congress, observed, that although the general power of war was given to Congress, yet that the mode of exercising that power might be regulated by the States in any manner which would not frustrate the power, and which their policy might require. To this it was answered, that if Congress had the power at all, it could not, either by the Articles of Confederation or the reason of things, admit of such a controlling power in each of the States; and that to admit such a construction would be a virtual surrender to the States of their whole federal power relative to war, the most essential of all the powers delegated to Congress. The Committee of the Legislature represented, as the great difficulty with them, that even a repeal of the law would not remedy the case without a retrospective law,

which their Constitution would not admit of, and expressed an earnest desire that some accommodating plan might be hit upon. They proposed, in order to induce the seizors to waive their appeal to the law of the State, that Congress would allow them to appoint one of two persons who should have authority to examine into the supplies, and decide whether they comprehended any articles that were not warranted by the passport. The Committee of Congress answered, that whatever obstacles might lie in the way of redress by the Legislature, if no redress proceeded from them, equal difficulties would lie on the other side; since Congress, in case of a confiscation of the supplies under the law, which the omission of some formalities required by it would probably produce, would be obliged, by honor and good faith, to indemnify the enemy for their loss out of the common treasury; that the other States would probably demand a reimbursement to the United States from Pennsylvania, and that it was impossible to say to what extremity the affair might be carried. They observed to the Committee of the Legislature and Executive, that although Congress was disposed to make all allowances, and particularly in the case of a law passed for a purpose recommended by themselves, yet they could not condescend to any expedient which, in any manner, departed from the respect which they owed to themselves and to the Articles of union. The Committee of Congress, however, suggested that, as the only expedient which would get rid of the clashing of the power of Congress and the law of the State, would be the dissuading the seizors from their appeal to the latter, it was probable that

if the seizors would apply to Congress for redress, such steps would be taken as would be satisfactory. The hint was embraced, and both the Executive and the Committee of the Legislature promised to use their influence with the persons of most influence among the seizors for that purpose. In consequence thereof a memorial from John Hannum, Persifor Frazer, and Joseph Gardner, was sent in to Congress, committed to the same Committee of Congress, and their Report of this day agreed to, in which the President of Pennsylvania is *requested* to appoint one of the referees. It is proper to observe that this business was conducted with great temper and harmony; and that President Dickinson, in particular, manifested, throughout the course of it, as great a desire to save the rights and dignity of Congress as those of the State over which he presided. As a few of the seizors only were parties to the memorial to Congress, it is still uncertain whether others may not adhere to their claims under the law, in which case all the embarrassments will be revived.

In a late report, which had been drawn up by Mr. HAMILTON, and made to Congress, in answer to a memorial from the Legislature of Pennsylvania, among other things showing the impossibility Congress had been under of paying their creditors, it was observed, that the aid afforded by the Court of France had been appropriated by that Court, at the time, to the immediate use of the army. This clause was objected to as unnecessary, and as dishonorable to Congress. The fact also was controverted. Mr. HAMILTON and Mr. FITZSIMMONS justified the expediency of retaining it, in order to justify Con-

gress the more completely in failing in their engagements to the public creditors. Mr. WILSON and Mr. MADISON proposed to strike out the words "appropriated by France," and substitute the words "applied by Congress to the immediate and necessary support of the army." This proposition would have been readily approved, had it not appeared, on examination, that in one or two small instances, and particularly in the payment of the balance due to Arthur Lee, Esquire, other applications had been made of the aid in question. The Report was finally recommitted.

A letter from the Superintendent of Finance was received and read, acquainting Congress that as the danger from the enemy, which led him into the Department, was disappearing, and he saw little prospect of provision being made, without which injustice would take place, of which he would never be the minister, he proposed not to serve longer than May next, unless proper provision should be made. This letter made a deep and solemn impression on Congress. It was considered as the effect of despondence in Mr. Morris of seeing justice done to the public creditors, or the public finances placed on an honorable establishment; as a source of fresh hopes to the enemy when known; as ruinous both to domestic and foreign credit; and as producing a vacancy which none knew how to fill, and which no fit man would venture to accept. Mr. GORHAM, after observing that the administration of Mr. Morris had inspired great confidence and expectation in his State, and expressing his extreme regret at the event, moved that the letter should be committed. This was opposed, as unnecessary and nugatory, by

Mr. WILSON, since the known firmness of Mr. Morris, after deliberately taking a step, would render all attempts to dissuade him fruitless; and that, as the memorial from the army had brought the subject of funds before Congress, there was no other object for a committee. The motion to commit was disagreed to. Mr. WILSON then moved that a day might be assigned for the consideration of the letter. Against the propriety of this it was observed, by Mr. MADISON, that the same reasons which opposed a commitment opposed the assignment of any day. Since Congress could not, however anxious their wishes or alarming their apprehensions might be, condescend to solicit Mr. Morris, even if there were a chance of its being successful; and since it would be equally improper for Congress, however cogent a motive it might add in the mind of every member to struggle for substantial funds, to let such a consideration appear in their public acts on that subject. The motion of Mr. WILSON was not passed. Congress, supposing that a knowledge of Mr. Morris's intentions would anticipate the ills likely to attend his actual resignation, ordered his letter to be kept secret.⁵²

Nothing being said to-day as to the mode of insertion of the treaty and convention with the States General, the Secretary proceeded in retaining both columns.

In consequence of the report to the Grand Committee on the memorial from the army, by the subcommittee, the following report* was made by the former to Congress, and came under consideration to-day.

* Drawn by Col. HAMILTON.

The Grand Committee having considered the contents of the memorial presented by the army, find that they comprehend five different articles.

First. Present pay.

Second. A settlement of accounts of the arrearages of pay, and security for what is due.

Third. A commutation of the half-pay allowed by different resolutions of Congress for an equivalent in gross.

Fourth. A settlement of the accounts of deficiencies of rations and compensation.

Fifth. A settlement of accounts of deficiencies of clothing and compensation.

The Committee are of opinion, with respect to the first, that the Superintendent of Finance be directed, conformably to measures already taken for that purpose, as soon as the state of the public finances will permit, to make such payment, and in such manner as he shall think proper, till the further order of Congress.

With respect to the second article, so far as relates to the settlement of accounts, that the several States be called upon to complete the settlement, without delay, with their respective lines of the army up to the —— day of August, 1780; that the Superintendent be also directed to take such measures as shall appear to him most proper and effectual for accomplishing the object in the most equitable and satisfactory manner, having regard to former resolutions of Congress, and the settlements made in consequence thereof.—And so far as relates to the providing of security for what shall be found due on such settlement: Resolved, that the troops of the

United States, in common with all the creditors of the same, have an undoubted right to expect such security; and that Congress will make every effort in their power to obtain from the respective States *general* and substantial funds adequate to the object of funding the whole debt of the United States; and that Congress ought to enter upon an immediate and full consideration of the nature of such funds, and the most likely mode of obtaining them.

With respect to the third article, the Committee are of opinion that it will be expedient for Congress to leave it to the option of all officers entitled to half-pay, either to preserve their claim to that provision as it now stands by the several resolutions of Congress upon that subject, or to accept — years full pay, to be paid to them in one year after the conclusion of the war, in money, or placed upon good funded security, bearing an annual interest of six per cent.; provided that the allowance to widows and orphans of such officers as have died or been killed, or may die or be killed, in the service during the war, shall remain as established by the resolution of the ——— day of ———.

With respect to the fourth and fifth articles, the Committee beg leave to delay their report until they have obtained more precise information than they now possess on the subject.

The first clause of this report relative to immediate pay passed without opposition. The Superintendent had agreed to make out one month's pay. Indeed, long before the arrival of the Deputies, he had made contingent and secret provision for that purpose; and to ensure it now, he meant, if neces-

sary, to draw bills on the late application for loans. The words "conformably to measures already taken," referred to the above secret provision, and were meant to show that the payment to the army did not originate in the memorial, but in an antecedent attention to the wants of the army.

In the discussion of the second clause, the epoch of the ——— of August, 1780, was objected to by the Eastern Delegates. Their States having settled with their lines down to later periods, they wished now to obtain the sanction of Congress to them. After some debate, a compromise was proposed by Mr. HAMILTON by substituting the last day of December, 1780. This was agreed to without opposition, although several members disliked it. The latter part of the clause, beginning with the word "Resolved," &c., was considered as a very solemn point, and the basis of the plans by which the public engagements were to be fulfilled, and union cemented. A motion was made by Mr. BLAND to insert, after the words "in their power," the words "consistent with the Articles of Confederation." This amendment, as he explained it, was not intended to contravene the idea of funds extraneous to the Federal Articles, but to leave those funds for a consideration subsequent to providing constitutional ones. Mr. ARNOLD, however, eagerly seconded it. No question, however, was taken on it, Congress deeming it proper to postpone the matter till the next day, as of the most solemn nature, and to have as full a representation as possible. With this view, and to get rid of Mr. BLAND's motion, they adjourned; ordering all the members not present, and in town, to be summoned.

SATURDAY, JANUARY 25TH.

The Secretary of Congress having suggested to a member that the contract with the Court of France specifying the sums due from the United States, although extremely generous on the part of the former, had been ratified without any such acknowledgments by the latter; that this was the first instance in which such acknowledgments had been omitted, and that the omission would be singularly improper at a time when we were soliciting further aids; these observations being made to Congress, the ratification was reconsidered, and the words "impressed with," &c., inserted.

The report on the memorial was resumed. By Mr. HAMILTON, Mr. FITZSIMMONS, and one or two others who had conversed with Mr. Morris on the change of the last day of December for the —— day of August, it was suggested that the change entirely contravened the measures pursued by his Department; and moved for a reconsideration of it, in order to inquire into the subject. Without going into details, they urged this as a reason sufficient. The Eastern Delegates, although they wished for unanimity and system in future proceedings relative to our funds and finances, were very stiff in retaining the vote which coincided with the steps taken by their constituents. Of this much complaint was made. Mr. RUTLEDGE, on this occasion, alleging that Congress ought not to be led by general suggestions derived from the Office of Finance, joined by Mr. GERVAIS, voted against the reconsideration. The

consequence was, that South Carolina was divided, and six votes only in favor of the reconsideration. Mr. HAMILTON having expressed his regret at the negative, and explained more exactly the interference of the change of the epoch with the measures and plans of the Office of Finance, which had limited all State advances and settlements to August —, 1780, Mr. RUTLEDGE acknowledged the sufficiency of the reasons, and at his instance the latter date was reinstated. On this second question Connecticut also voted for August.

The — day of August being reinstated before a question on the whole paragraph was taken, Mr. GORHAM objected to the word “general” before funds as ambiguous, and it was struck out; not, however, as improper, if referring to all the States, and not to all objects of taxation. Without this word the clause passed unanimously, even Rhode Island concurring in it.

Congress proceeded to the third clause relative to the commutation of half-pay. A motion was made by Mr. HAMILTON, to fill the blank with “six”—this was in conformity to tables of Dr. Price, estimating the officers on the average of good lives. Liberality in the rate was urged by several as necessary to give satisfaction, and prevent a refusal of the offer. For this motion there were six ayes, five noes; the Southern States and New York being in the affirmative, the Eastern and New Jersey in the negative. Colonel BLAND proposed six and a half, erroneously supposing the negative of six to have proceeded from its being too low. It was, on the contrary, rather doubtful whether the Eastern States would concur

in any arrangement on this head; so averse were they to what they call pensions. Several having calculated that the annual amount of half-pay was between four and five hundred thousand dollars, and the interest of the gross sum nearly two-thirds of that sum, Congress were struck with the necessity of proceeding with more caution, and for that purpose committed the report to a Committee of five—Mr. OSGOOD, Mr. FITZSIMMONS, Mr. GERVAIS, Mr. HAMILTON, and Mr. WILSON.

On the motion of Mr. WILSON, Monday next was assigned for the consideration of the resolution on the second clause of the report on the memorial from the army. He observed, that this was necessary to prevent the resolution from being, like many others, *vox et preterea nihil*.

MONDAY, JANUARY 27TH.

A letter from General Washington was received, notifying the death of Lord Stirling, and enclosing a report of the officer sent to apprehend Knowlton and Wells. (See page 209.)

The following is an extract from the report: "He (one Israel Smith) further said, that Knowlton and Wells had received a letter from JONATHAN ARNOLD, Esquire, at Congress, part of which was made public, which informed them that affairs in Congress were unfavorable to them, and would have them to look out for themselves. What other information this letter contained, he could not say. I found, in my march through the State, that the last men-

tioned gentleman was much in favor with all the principal men in that State, I had any conversation with."

Mr. ARNOLD, being present at the reading, informed Congress that he was surprised how such a notion should have prevailed with respect to him; that he had never held any correspondence with either Knowlton or Wells, and requested that he might be furnished with the extract above. In this he was indulged without opposition. But it was generally considered, notwithstanding his denial of the correspondence, that he had, at least at second hand, conveyed the intelligence to Vermont.

A long petition was read, signed as alleged, by near two thousand inhabitants (but all in the same handwriting) of the territory lately in controversy between Pennsylvania and Virginia, complaining of the grievances to which their distance from public authority exposed them, and particularly of a late law of Pennsylvania interdicting even consultations about a new State within its limits; and praying that Congress would give a sanction to their independence, and admit them into the Union. The petition lay on the table, without a single motion or remark relative to it.

The order of the day was called for, to wit, the resolution of Saturday last in favor of adequate and substantial funds.

The subject was introduced by Mr. WILSON, with some judicious remarks on its importance, and the necessity of a thorough and serious discussion of it. He observed that the United States had, in the course of the Revolution, displayed both an unexampled

activity in resisting the enemy, and an unexampled patience under the losses and calamities occasioned by the war. In one point only he said they had appeared to be deficient, and that was a cheerful payment of taxes. In other free governments it had been seen that taxation had been carried further, and more patiently borne, than in States where the people were excluded from the governments; the people considering themselves the sovereign as well as the subject, and as receiving with one hand what they paid with the other. The peculiar repugnance of the people of the United States to taxes, he supposed, proceeded, first, from the odious light in which they had been, under the old government, in the habit of regarding them; secondly, from the direct manner in which taxes in this country had been laid, whereas in all other countries taxes were paid in a way that was little felt at the time. That it could not proceed altogether from inability, he said, must be obvious: nay, that the ability of the United States was equal to the public burden could be demonstrated. According to calculations of the best writers, the inhabitants of Great Britain paid, before the present war, at the annual rate of at least twenty-five shillings sterling per head. According to like calculations, the inhabitants of the United States, before the Revolution, paid, indirectly and insensibly, at the rate of at least ten shillings sterling per head. According to the computed depreciation of the paper emissions, the burden insensibly borne by the inhabitants of the United States had amounted, during the first three or four years of the war, to not less than twenty millions of dollars per annum—a burden, too,

which was the more oppressive as it fell very unequally on the people. An inability, therefore, could not be urged as a plea for the extreme deficiency of the revenue contributed by the States, which did not amount, during the past year, to half a million of dollars; that is, to one sixth of a dollar per head. Some more effectual mode of drawing forth the resources of the country was necessary. That, in particular, it was necessary that such funds should be established as would enable Congress to fulfil those engagements which they had been enabled to enter into. It was essential, he contended, that those to whom was delegated the power of making war or peace should, in some way or other, have the means of effectuating these objects; that, as Congress had been under the necessity of contracting a large debt, justice required that such funds should be placed in their hands as would discharge it; that such funds were also necessary for carrying on the war, and as Congress found themselves in their present situation, destitute both of the faculty of paying debts already contracted, and of providing for future exigencies, it was their duty to lay that situation before their constituents, and at least to come to an *éclaircissement* on the subject. He remarked, that the establishment of certain funds for paying would set afloat the public paper; adding, that a public debt, resting on general funds, would operate as a cement to the Confederacy, and might contribute to prolong its existence, after the foreign danger ceased to counteract its tendency to dissolution. He concluded with moving that it be resolved,

“That it is the opinion of Congress that complete

justice cannot be done to the creditors of the United States, nor the restoration of public credit be effected, nor the future exigencies of the war provided for, but by the establishment of *general* funds to be collected by Congress."

This motion was seconded by Mr. FITZSIMMONS.

Mr. BLAND desired that Congress would, before the discussion proceeded further, receive a communication of sundry papers transmitted to the Virginia Delegates by the Executive of that State, two of which had relation to the question before Congress. These were—first, a resolution of the General Assembly declaring its inability to pay more than fifty thousand pounds, Virginia currency, towards complying with the demands of Congress; secondly, the act repealing the act granting the impost of five per cent. These papers were received and read.

Mr. WOLCOTT expressed some astonishment at the inconsistency of these two acts of Virginia; supposed that they had an unfavorable aspect on the business before Congress, and proposed that the latter should be postponed for the present. He was not seconded.

Mr. GORHAM favored the general idea of the motion, animadverting on the refusal of Virginia to contribute the necessary sums, and at the same moment repealing her concurrence in the only scheme that promised to supply a deficiency of contributions. He thought the motion, however, inaccurately expressed, since the word "general" might be understood to refer to every possible object of taxation, as well as to the operation of a particular tax throughout the States. He observed that the non-payment

of the one million two hundred thousand dollars demanded by Congress, for paying the interest of the debts for the year ——, demonstrated that the constitutional mode of annual requisitions was defective; he intimated that lands were already sufficiently taxed, and that polls and commerce were the most proper objects. At his instance the latter part of the motion was so amended as to run “establishment of permanent and adequate funds to operate generally throughout the United States.”

Mr. HAMILTON went extensively into the subject; the sum of it was as follows: he observed that funds considered as permanent sources of revenue were of two kinds—first, such as would extend generally and uniformly throughout the United States, and would be collected under the authority of Congress; secondly, such as might be established separately within each State, and might consist of any objects which were chosen by the States, and might be collected either under the authority of the States or of Congress. Funds of the first kind, he contended, were preferable; as being, first, more simple, the difficulties attending the mode of fixing the quotas laid down in the Confederation rendering it extremely complicated, and in a manner insuperable; secondly, as being more certain, since the States, according to the said plan, would probably retain the collection of the revenue, and a vicious system of collection prevailed generally throughout the United States—a system by which the collectors were chosen by the people, and made their offices more subservient to their popularity than to the public revenue; thirdly, as being more economical, since

the collection would be effected with fewer officers under the management of Congress than under that of the States.

Mr. GORHAM observed, that Mr. HAMILTON was mistaken in the representation he had given of the collection of taxes in several of the States, particularly in that of Massachusetts, where the collection was on a footing which rendered it sufficiently certain.

Mr. WILSON, having risen to explain something which had fallen from him, threw out the suggestion that several branches of the revenue, if yielded by all the States, would perhaps be more just and satisfactory than any single one; for example, an impost on trade combined with a land tax.

Mr. DYER expressed a strong dislike to a collection by officers appointed under Congress, and supposed the States would never be brought to consent to it.

Mr. RAMSAY was decidedly in favor of the proposition. Justice, he said, entitled those who had lent their money and services to the United States to look to them for payment; that if general and certain revenues were not provided, the consequence would be that the army and public creditors would have soon to look to their respective States only for satisfaction; that the burden in this case would fall unequally on the States; that rivalships relative to trade would impede a regular impost, and would produce confusion among the States; that some of the States would never make, of themselves, provision for half-pay, and that the army would be so far defrauded of the rewards stipulated to them by Congress; that although it might be uncertain whether the States would accede to plans founded on the

proposition before the House, yet, as Congress was convinced of its truth and importance, it was their duty to make the experiment.

Mr. BLAND thought, that the ideas of the States on the subject were so averse to a general revenue in the hands of Congress, that if such a revenue were proper it was unattainable; that as the deficiency of the contributions from the States proceeded, not from their complaints of their inability,* but of the inequality of the apportionments, it would be a wiser course to pursue the rule of the Confederation, to wit, to ground the requisition on an actual valuation of lands; that Congress would then stand on firm ground, and try a practicable mode.

TUESDAY, JANUARY 28TH.

The subject yesterday under discussion was resumed. A division of the question was called for by Mr. WOLCOTT, so as to leave a distinct question on the words "to be collected by Congress," which he did not like.

Mr. WILSON considered this mode of collection as essential to the idea of a general revenue, since, without it, the proceeds of the revenue would depend entirely on the punctuality, energy and unanimity of the States, the want of which led to the present consideration.

Mr. HAMILTON was strenuously of the same opinion.

Mr. FITZSIMMONS informed Congress that the Legis-

* The papers just read, from Virginia, complained of her inability without mentioning an inequality. This was deemed a strange assertion.

lature of Pennsylvania had, at their last meeting, been dissuaded from appropriating their revenue to the payment of their own citizens, creditors of the United States, instead of remitting it to the Continental Treasury, merely by the urgent representations of a Committee of Congress, and by the hope that some general system in favor of all the public creditors would be adopted; that the Legislature were now again assembled, and, although sensible of the tendency of such an example, thought it their duty, and meant, in case the prospect of such a system vanished, to proceed immediately to the separate appropriations formerly in contemplation.

On the motion of Mr. MADISON, the whole proposition was new-modelled, as follows :

“That it is the opinion of Congress that the establishment of permanent and adequate funds, to operate generally throughout the United States, is indispensably necessary for doing complete justice to the creditors of the United States, for restoring public credit, and for providing for the future exigencies of the war.” The words “to be collected under the authority of Congress” were, as a separate question, left to be added afterwards.

Mr. RUTLEDGE objected to the term “generally,” as implying a degree of uniformity in the tax which would render it unequal. He had in view particularly a land tax, according to quality, as had been proposed by the Office of Finance. He thought the prejudices of the people opposed the idea of a general tax; and seemed, on the whole, to be disinclined to it himself, at least if extended beyond an impost

on trade; urging the necessity of pursuing a valuation of land, and requisitions grounded thereon.

Mr. LEE seconded the opposition to the term "general." He contended that the States would never consent to a uniform tax, because it would be unequal; that it was, moreover, repugnant to the Articles of Confederation; and by placing the purse in the same hands with the sword, was subversive of the fundamental principles of liberty. He mentioned the repeal of the impost by Virginia—himself alone opposing it, and that, too, on the inexpediency in point of time—as proof of the aversion to a general revenue. He reasoned upon the subject, finally, as if it was proposed that Congress should assume and exercise a power immediately, and without the sanction of the States, of levying money on them.

Mr. WILSON rose, and explained the import of the motion to be, that Congress should recommend to the States the investing them with power. He observed that the Confederation was so far from precluding, that it expressly provided for, future alterations; that the power given to Congress by that act was too little, not too formidable; that there was more of a centrifugal than centripetal force in the States, and that the funding of a common debt in the manner proposed would produce a salutary invigoration and cement to the Union.

Mr. ELLSWORTH acknowledged himself to be undecided in his opinion; that, on the one side, he felt the necessity of continental funds for making good the continental engagements, but, on the other, desponded of a unanimous concurrence of the States in such an establishment. He observed, that it was a

question of great importance, how far the Federal Government can or ought to exert coercion against delinquent members of the Confederacy; and that without such coercion no certainty could attend the constitutional mode, which referred every thing to the unanimous punctuality of thirteen different councils. Considering, therefore, a continental revenue as unattainable, and periodical requisitions from Congress as inadequate, he was inclined to make trial of the middle mode of permanent State funds, to be provided at the recommendation of Congress, and appropriated to the discharge of the common debt.

Mr. HAMILTON, in reply to Mr. ELLSWORTH, dwelt long on the inefficacy of State funds. He supposed, too, that greater obstacles would arise to the execution of the plan than to that of a general revenue. As an additional reason for the latter to be collected by officers under the appointment of Congress, he signified, that, as the energy of the Federal Government was evidently short of the degree necessary for pervading and uniting the States, it was expedient to introduce the influence of officers deriving their emoluments from, and consequently interested in supporting the power of, Congress. *

Mr. WILLIAMSON was of opinion, that continental funds, although desirable, were unattainable, at least to the full amount of the public exigencies. He

* This remark was imprudent and injurious to the cause which it was meant to serve. This influence was the very source of jealousy which rendered the States averse to a revenue under collection, as well as appropriation of Congress. All the members of Congress who concurred, in any degree, with the States in this jealousy, smiled at the disclosure. Mr. BLAND, and still more Mr. LEE, who were of this number, took notice, in private conversation, that Mr. HAMILTON had let out the secret.

thought if they could be obtained for the foreign debt, it would be as much as could be expected, and that they would also be less essential for the domestic debt.

Mr. MADISON observed, that it was needless to go into proofs of the necessity of paying the public debts; that the idea of erecting our national independence on the ruins of public faith and national honor must be horrid to every mind which retained either honesty or pride; that the motion before Congress contained a simple proposition, with respect to the truth of which every member was called upon to give his opinion; that this opinion must necessarily be in the affirmative, unless the several objects of doing justice to the public creditors, &c. &c., could be compassed by some other plan than the one proposed; that the two last objects depended essentially on the first; since the doing justice to the creditors would alone restore public credit, and the restoration of this would alone provide for the future exigencies of the war. Is, then, a continental revenue indispensably necessary for doing complete justice, &c.? This is the question. To answer it, the other plans proposed must first be reviewed.

In order to do complete justice to the public creditors, either the principal must be paid off, or the interest paid punctually. The first is admitted to be impossible on any plan. The only plans opposed to the continental one for the latter purpose are, first, periodical requisitions according to the Federal Articles; secondly, permanent funds established by each State within itself, and the proceeds consigned to the discharge of public debts.

Will the first be adequate to the object? The contrary seems to be maintained by no one. If reason did not sufficiently premonish, experience has sufficiently demonstrated, that a punctual and unfailing compliance, by thirteen separate and independent governments, with periodical demands of money from Congress, can never be reckoned upon with the certainty requisite to satisfy our creditors, or to tempt others to become our creditors in future.

Secondly. Will funds separately established within each State, and the amount submitted to the appropriation of Congress, be adequate to the object? The only advantage which is thought to recommend this plan is, that the States will be with less difficulty prevailed upon to adopt it. Its imperfections are, first, that it must be preceded by a final and satisfactory adjustment of all accounts between the United States and individual States; and by an apportionment founded on a valuation of all the lands throughout each of the States, in pursuance of the law of the Confederation; for although the States do not as yet insist on these pre-requisites in the case of annual demands on them, with which they very little comply, and that only in the way of an open account, yet these conditions would certainly be exacted in case of a permanent cession of revenue; and the difficulties and delays, to say the least, incident to these conditions, can escape no one. Secondly, the produce of the funds being always, in the first instance, in the hands and under the control of the States separately, might, at any time, and on various pretences, be diverted to State objects. Thirdly, that jealousy which is as natural to the

States as to individuals, and of which so many proofs have appeared, that *others* will not fulfil their respective portions of the common obligations, will be continually and mutually suspending remittances to the common treasury, until it finally stops them altogether. These imperfections are too radical to be admitted into any plan intended for the purposes in question.

It remains to examine the merits of a plan of a general revenue operating throughout the United States, under the superintendence of Congress.

One obvious advantage is suggested by the last objection to separate revenues in the different States; that is, it will exclude all jealousy among them on that head, since each will know, whilst it is submitting to the tax, that all the others are necessarily at the same instant bearing their respective portions of the burden. Again, it will take from the States the opportunity, as well as the temptation, to divert their incomes from the general to internal purposes, since those incomes will pass *directly* into the Treasury of the United States.

Another advantage attending a general revenue is, that in case of the concurrence of the States in establishing it, it would become soonest productive, and would, consequently, soonest obtain the objects in view; nay, so assured a prospect would give instantaneous confidence and content to the public creditors at home and abroad, and place our affairs in a most happy train.

The consequences with respect to the Union, of omitting such a provision for the debts of the Union, also claimed particular attention. The tenor of the

memorial from Pennsylvania, and of the information just given on the floor by one of its Delegates, (Mr. FITZSIMMONS,) renders it extremely probable that that State would, as soon as it should be known that Congress had declined such provision, or the States rejected it, appropriate the revenue required by Congress to the payment of its own citizens and troops, creditors of the United States. The irregular conduct of other States on this subject, enforced by such an example, could not fail to spread the evil throughout the whole continent. What, then, would become of the Confederation? What would be the authority of Congress? What the tie by which the States could be held together? What the source by which the army could be subsisted and clothed? What the mode of dividing and discharging our foreign debts? What the rule of settling the internal accounts? What the tribunal by which controversies among the States could be adjudicated?

It ought to be carefully remembered, that this subject was brought before Congress by a very solemn appeal from the army to the justice and gratitude of their country. Besides immediate pay, they ask for permanent security for arrears. Is not this request a reasonable one? Will it be just or politic to pass over the only adequate security that can be devised, and instead of fulfilling the stipulations of the United States to them, to leave them to seek their rewards separately from the States to which they respectively belong? The patience of the army has been equal to their bravery, but that patience must have its limits, and the result of despair cannot be foreseen, nor ought to be risked.

It has been objected against a general revenue, that it contravenes the Articles of Confederation. These articles, as has been observed, presupposed the necessity of alterations in the federal system, and have left a door open for them. They, moreover, authorize Congress to borrow money. Now, in order to borrow money, permanent and certain provision is necessary; and if this provision cannot be made in any other way, as has been shown, a general revenue is within the spirit of the Confederation.

It has been objected that such a revenue is subversive of the sovereignty and liberty of the States. If it were to be assumed, without the free gift of the States, this objection might be of force; but no assumption is proposed. In fact, Congress are already invested by the States with the constitutional authority over the purse as well as the sword. A general revenue would only give this authority a more certain and equal efficacy. They had a right to fix the *quantum* of money necessary for the common purposes. The right of the States is limited to the *mode* of supply. A requisition of Congress on the States for money is as much a law to them as their revenue acts, when passed, are laws to their respective citizens. If, for want of the faculty or means of enforcing a requisition, the law of Congress proves inefficient, does it not follow that, in order to fulfil the views of the Federal Constitution, such a change should be made as will render it efficient? Without such efficiency the end of this Constitution, which is to preserve order and justice among the members of the Union, must fail; as without a like efficiency would the end of State Constitutions, which is to

preserve like order and justice among their respective members.

It has been objected, that the States have manifested such aversion to the impost on trade, as renders any recommendations of a general revenue hopeless and imprudent. It must be admitted that the conduct of the States on that subject is less encouraging than were to be wished. A review of it, however, does not excite despondence. The impost was adopted immediately, and in its utmost latitude, by several of the States. Several, also, which complied partially with it at first, have since complied more liberally. One of them, after long refusal, has complied substantially. Two States only have failed altogether; and, as to one of them, it is not known that its failure has proceeded from a decided opposition to it. On the whole, it appears that the necessity and reasonableness of the scheme have been gaining ground among the States. He was aware that one exception ought to be made to this inference; an exception, too, which it peculiarly concerned him to advert to. The State of Virginia, as appears by an act yesterday laid before Congress, has withdrawn its assent once given to the scheme. This circumstance could not but produce some embarrassment in a Representative of that State advocating the scheme—one, too, whose principles were extremely unfavorable to a disregard of the sense of constituents. But it ought not to deter him from listening to considerations which, in the present case, ought to prevail over it. One of these considerations was, that although the Delegates who compose Congress more immediately represented, and were amenable

to, the States from which they respectively come, yet, in another view, they owed a fidelity to the collective interests of the whole; secondly, although not only the express instructions, but even the declared sense of constituents, as in the present case, were to be a law in general to their representatives, still there were occasions on which the latter ought to hazard personal consequences, from a respect to what his clear conviction determines to be the true interest of the former; and the present he conceived to fall under this exception; lastly, the part he took on the present occasion was the more fully justified to his own mind, by his thorough persuasion that with the same knowledge of public affairs which his station commanded, the Legislature of Virginia would not have repealed the law in favor of the impost, and would even now rescind the appeal.

The result of these observations was, that it was the duty of Congress, under whose authority the public debts had been contracted, to aim at a general revenue as the only means of discharging them; and that the dictate of justice and gratitude was enforced by a regard to the preservation of the Confederacy, to our reputation abroad, and to our internal tranquillity.

Mr. RUTLEDGE complained that those who so strenuously urged the necessity and competency of a general revenue,* operating throughout all the United States at the same time, declined specifying any general objects from which such a revenue could be drawn. He was thought to insinuate that these

* He was apprehensive that a tax on land according to its quantity, not value, as had been recommended by Mr. Morris, was in contemplation.

objects were kept back intentionally, until the general principle could be irrevocably fixed, when Congress would be bound, at all events, to go on with the project; whereupon—

Mr. FITZSIMMONS expressed some concern at the turn which the discussion seemed to be taking. He said, that unless mutual confidence prevailed no progress could be made towards the attainment of those ends which all, in some way or other, aimed at. It was a mistake to suppose that any specific plan had been preconcerted among the patrons of a general revenue.

Mr. WILSON, with whom the motion originated, gave his assurances that it was neither the effect of preconcert with others, nor of any determinate plan matured by himself; that he had been led into it by the declaration, on Saturday last, by Congress, that substantial funds ought to be provided, by the memorial of the army from which that declaration had resulted; by the memorial from the State of Pennsylvania, holding out the idea of separate appropriations of her revenue, unless provision were made for the public creditors; by the deplorable and dishonorable situation of public affairs, which had compelled Congress to draw bills on the unpromised and contingent bounty of their Ally, and which was likely to banish the Superintendent of Finance, whose place could not be supplied, from his Department. He observed that he had not introduced details into the debate because he thought them premature, until a general principle should be fixed; and that as soon as the principle should be fixed he would, although not furnished with any digested

plan, contribute all in his power to the forming such a one.

Mr. **RUTLEDGE** moved, that the proposition might be committed, in order that some practicable plan might be reported before Congress should declare that it ought to be adopted.

Mr. **IZARD** seconded the motion, from a conciliatory view.

Mr. **MADISON** thought the commitment unnecessary, and would have the appearance of delay; that too much delay had already taken place; that the deputation of the army had a right to expect an answer to their memorial as soon as it could be decided by Congress. He differed from Mr. **WILSON** in thinking that a specification of the objects of a general revenue would be improper; and thought that those who doubted its practicability had a right to expect proof of it from details, before they could be expected to assent to the general principle; but he differed also from Mr. **RUTLEDGE**, who thought a commitment necessary for the purpose; since his views would be answered by leaving the motion before the House, and giving the debate a greater latitude. He suggested, as practicable objects of a general revenue, first, an impost on trade; secondly, a poll-tax under certain qualifications; thirdly, a land-tax under ditto.*

Mr. **HAMILTON** suggested a house and window-

* A poll-tax to be qualified by rating blacks somewhat lower than whites; a land-tax, by considering the value of land in each State to be in an inverse proportion of its quantity to the number of people; and apportioning on the aggregate quantity in each State accordingly, leaving the State at liberty to make a distributive apportionment on its several districts on a like or any other equalizing principle.

tax; he was in favor of the mode of conducting the business urged by Mr. MADISON.

On the motion for the commitment, six States were in favor of it, and five against it; so it was lost. In this vote the merits of the main proposition very little entered.

Mr. LEE said, that it was a waste of time to be forming resolutions and settling principles on this subject. He asked whether these would ever bring any money into the public treasury. His opinion was that Congress ought, in order to guard against the inconvenience of meetings of the different Legislatures at different and even distant periods, to call upon the Executives to convoke them all at one period, and to lay before them a full state of our public affairs. He said the States would never agree to those plans which tended to aggrandize Congress; that they were jealous of the power of Congress, and that he acknowledged himself to be one of those who thought this jealousy not an unreasonable one; that no one who had ever opened a page, or read a line, on the subject of liberty could be insensible to the danger of surrendering the purse into the same hands which held the sword.

The debate was suspended by an adjournment.

WEDNESDAY, JANUARY 29TH.

Mr. FITZSIMMONS reminded Congress of the numerous inaccuracies and errors in the American column of the Treaty with Holland, and proposed that a revision of it, as ratified, should take place,

in order that some steps might be taken for redressing the evil. He added, that an accurate comparison of it with the Treaty with France ought also to be made, for the purpose of seeing whether it consisted in all its parts with the latter.* He desired the Committee who had prepared the ratification to give some explanation on the subject to Congress.

Mr. MADISON, as first on that Committee, informed Congress, that the inaccuracies and errors, consisting of mis-spelling, foreign idioms, and foreign words, obscurity of the sense, &c., were attended to by the Committee, and verbally noted to Congress when their report was under consideration; that the Committee did not report in writing, as the task was disagreeable, and the faults were not conceived to be of sufficient weight to affect the ratification. He thought it would be improper to reconsider the act, as had been suggested, for the purpose of suspending it on that account or any other, but had no objection, if Congress were disposed, to instruct Mr. Adams to substitute, with the consent of the other party, a more correct counterpart in the American language. The subject was dropped, nobody seeming inclined to urge it.

On the motion of Mr. RUTLEDGE, and for the purpose of extending the discussion to particular objects of general revenue, Congress resolved itself into a

* Mr. HAMILTON told Mr. MADISON, privately, that M. de Marbois, speaking of the treaty, asked him emphatically whether there were not some articles which required animadversion. Mr. H. did not, at the time, know what was alluded to. He now supposed the allusion to be to some article supposed to be inconsistent with the treaty with France; particularly the article referring to the select articles of the latter, instead of the whole; which article, Mr. Adams informed Congress, had been satisfactory to the Duke de la Vauguyon.

Committee of the Whole, to consider of the most effectual means of restoring public credit; and the proposition relative to general revenue was referred to the Committee. Mr. CARROLL was elected into the chair, and the proposition taken up.

Mr. BLAND proposed to alter the words of the proposition, so as to make it read establishment of funds "on taxes or duties, to operate generally," &c. This was agreed to as a more correct phraseology. Mr. HAMILTON objected to it at first, supposing, through mistake, that it might exclude the back lands which was a fund in contemplation of some gentlemen.

Mr. MADISON, having adverted to the jealousy of Mr. RUTLEDGE, of a latent scheme to fix a tax on land according to its quantity, moved that between the words "generally" and "to operate" might be inserted the words "and in just proportion."

Mr. WILSON said he had no objection to this amendment, but that it might be referred to the taxes individually, and unnecessarily fetter Congress; since, if the taxes collectively should operate in just proportion, it would be sufficient. He instanced a land-tax and an impost on trade—the former of which might press hardest on the Southern, and the latter on the Eastern, but both together might distribute the burden pretty uniformly. From this consideration he moved that the words "on the whole" might be prefixed to the words "in just proportion." This amendment to the amendment of Mr. MADISON was seconded by Mr. BOUDINOT, and agreed to without opposition, as was afterwards the whole amendment.

Mr. WILSON, in order to leave the scheme open for

the back lands as a fund for paying the public debts, moved that the proposition might be further altered so as to read "indispensably necessary *towards* doing complete justice," &c. The motion was seconded by Mr. BOUDINOT, and passed without opposition.

The main proposition by Mr. WILSON, as thus amended, then passed without opposition, in the words following: "That it is the opinion of Congress that the establishment of permanent and adequate funds on taxes or duties, which shall operate generally, and, on the whole, in just proportion, throughout the United States, are indispensably necessary towards doing complete justice to the public creditors, for restoring public credit, and for providing for the future exigencies of the war."

Mr. BLAND proposed, as the only expedient that could produce immediate relief to the public creditors, that Congress should, by a fixed resolution, appropriate to the payment of interest *all* the moneys which should arise from the requisitions on the States. He thought this would not only give relief to the public creditors, but, by throwing into circulation the stagnant securities, enliven the whole business of taxation. This proposition was not seconded.

Mr. WILSON proceeded to detail to Congress his ideas on the subject of a continental revenue. He stated the internal debt, liquidated and unliquidated, at twenty-one millions of dollars; the foreign debt at eight millions; the actual deficiency of 1782 at four millions; the probable deficiency of 1783 at four millions; making, in the whole, thirty-seven millions; which, in round number, and probably without exceeding the reality, may be called forty millions.

The interest of this debt, at six per cent., is two millions four hundred thousand dollars; to which it will be prudent to add six hundred thousand dollars, which, if the war continues, will be needed, and in case of peace may be applied to a navy. An annual revenue of three millions of dollars, then, is the sum to be aimed at, and which ought to be under the management of Congress. One of the objects already mentioned, from which this revenue was to be sought, was a poll-tax. This he thought was a very proper one, but, unfortunately, the Constitution of Maryland, which forbids this tax, is an insuperable obstacle. Salt he thought a fit article to be taxed, as it is consumed, in a small degree, by all, and in great quantities by none. It had been found so convenient a subject of taxation, that among all nations which have a system of revenue it is made a material branch. In England, a considerable sum is raised from it. In France, it is swelled to the sum of fifty-four millions of livres. He thought it would be improper to levy this tax during the war, whilst the price would continue so high, but the necessary fall of price at the conclusion of it would render the tax less sensible to the people. The suspension of this particular tax during the war would not be inconvenient, as it might be set apart for the debt due to France, on which the interest would not be called for during the war. He computed the quantity of salt imported into the United States, annually, at three millions of bushels, and proposed a duty of one-third of a dollar per bushel, which would yield one million of dollars. This duty, he observed, would

press hardest on the Eastern States, on account of the extraordinary consumption in the fisheries.

The next tax which he suggested was on land. One dollar on every hundred acres, according to the computation of the Superintendent of Finance, would produce five hundred thousand dollars. This computation, he was persuaded, might be doubled; since there could not be less than one hundred millions of acres comprehended within the titles of individuals, which, at one dollar per hundred acres, yields one million of dollars. This tax could not be deemed too high, and would bear heaviest, not on the industrious farmer, but on the great land-holder. As the tax on salt would fall with most weight on the Eastern States, the equilibrium would be restored by this, which would be most felt by the Middle and Southern States.

The impost on trade was another source of revenue, which, although it might be proper to vary it somewhat in order to remove particular objections, ought to be again and again urged upon the States by Congress. The Office of Finance has rated this at five hundred thousand dollars. He thought a peace would double it, in which case the sum of three millions would be made up. If these computations, however, should be found to be too high, there will still be other objects which would bear taxation. An excise, he said, had been mentioned. In general, this species of taxation was tyrannical and justly obnoxious, but in certain forms had been found consistent with the policy of the freest States. In Massachusetts, a State remarkably jealous of its liberty, an excise was not only admitted before, but

continued since, the Revolution. The same was the case with Pennsylvania, also remarkable for its freedom. An excise, if so modified as not to offend the spirit of liberty, may be considered as an object of easy and equal revenue. Wine and imported spirits had borne a heavy excise in other countries, and might be adopted in ours. Coffee is another object which might be included. The amount of these three objects is uncertain, but materials for a satisfactory computation might be procured. These hints and remarks he acknowledged to be extremely imperfect, and that he had been led to make them solely by a desire to contribute his mite towards such a system as would place the finances of the United States on an honorable and prosperous footing.

Mr. GORHAM observed, that the proposition of Mr. BLAND, however salutary its tendency might be in the respects suggested, could never be admitted, because it would leave our army to starve, and all our affairs to stagnate, during its immediate operation. He objected to a duty on salt, as not only bearing too heavily on the Eastern States, but as giving a dangerous advantage to rivals in the fisheries. Salt, he said, exported from England for the fisheries, is exempted particularly from duties. He thought it would be best to confine our attention, for the present, to the impost on trade, which had been carried so far towards an accomplishment, and to remove the objections which had retarded it, by limiting the term of its continuance, leaving to the States the nomination of the collectors, and by making the appropriation of it more specific.

Mr. RUTLEDGE was also for confining our attention to the impost, and to get that before any further attempts were made. In order to succeed in getting it, however, he thought it ought to be asked in a new form. Few of the States had complied with the recommendation of Congress, literally. Georgia had not yet complied. Rhode Island had absolutely refused to comply at all. Virginia, which at first complied but partially, has since rescinded even that partial compliance. After enumerating the several objections urged by the States against the scheme, he proposed, in order to remove them, the following resolution, viz :

“That it be earnestly recommended to the several States, to impose and levy a duty of five per cent., *ad valorem*, at the time and place of importation, on all goods, wares, and merchandizes of foreign growth and manufacture, which may be imported into the said States, respectively, except goods of the United States or any of them, and a like duty on all prizes and prize goods condemned in the Court of Admiralty of said States; that the money arising from such duties be paid into the Continental Treasury, to be appropriated and applied to the payment of the interest, and to sink the principal, of the money which the United States have borrowed in Europe, and of what they may borrow; for discharging the arrears due to the army, and for the future support of the war, and to no other use or purpose whatsoever; that the said duties be continued for twenty-five years, unless the debts above mentioned be discharged in the mean time, in which case they shall cease and determine; that the money arising from

the said duties, and paid by any State, be passed to the credit of such State on account of its quota of the debt of the United States." The motion was seconded by Mr. LEE.

Mr. WOLCOTT opposed the motion, as unjust towards those States which, having few or no ports, receive their merchandize through the ports of others; repeating the observation that it is the consumer, and not the importer, who pays the duty. He again animadverted on the conduct of Virginia in first giving, and afterwards withdrawing, her assent to the impost recommended by Congress.

Mr. ELLSWORTH thought it wrong to couple any other objects with the impost; that the States would give this, if any thing; and that, if a land tax or excise were combined with it, the whole scheme would fail. He thought, however, that some modification of the plan recommended by Congress would be necessary. He supposed, when the benefits of this continental revenue should be experienced, it would incline the States to concur in making additions to it. He abetted the opposition of Mr. WOLCOTT to the motion of Mr. RUTLEDGE, which proposed that each State should be credited for the duties collected within its ports; dwelt on the injustice of it; said that Connecticut, before the Revolution, did not import one fiftieth, perhaps not one hundredth, part of the merchandize consumed within it, and pronounced that such a plan would never be agreed to. He concurred in the expediency of new-modelling the scheme of the impost by defining the period of its continuance; by leaving to the State the nomination, and to Congress the appointment, of collectors, or

vice versa, and by a more determinate appropriation of the revenue. The first object to which it ought to be applied was, he thought, the foreign debt. This object claimed a preference, as well from the hope of facilitating further aids from that quarter, as from the disputes into which a failure may embroil the United States. The prejudices against making a provision for foreign debts which should not include the domestic ones, was, he thought, unjust, and might be satisfied by immediately requiring a tax, in discharge of which loan-office certificates should be receivable. State funds, for the domestic debts, would be proper for subsequent consideration. He added, as a further objection against crediting the States for the duties on trade respectively collected by them, that a mutual jealousy of injuring their trade by being foremost in imposing such a duty would prevent any from making a beginning.

Mr. WILLIAMSON said, that Mr. RUTLEDGE's motion, at the same time that it removed some objections, introduced such as would be much more fatal to the measure. He was sensible of the necessity of some alterations, particularly in its duration, and the appointment of the collectors. But the crediting the States, severally, for the amount of their collections, was so palpably unjust and injurious, that he thought candor required that it should not be persisted in. He was of opinion that the interest of the States which trade for others also required it, since such an abuse of the advantage possessed by them would compel the States for which they trade to overcome the obstacles of nature, and provide supplies for themselves. North Carolina, he said, would proba-

bly be supplied pretty much through Virginia, if the latter forbore to levy a tax on the former; but in case she did not forbear, the ports of North Carolina, which are nearly as deep as those of Holland, might, and probably would, be substituted. The profits drawn by the more commercial States from the business they carry on for the others, were of themselves sufficient, and ought to satisfy them.

Mr. RAMSAY differed entirely from his colleague, Mr. RUTLEDGE. He thought that, as the consumer pays the tax, the crediting the States collecting the impost unjust. North Carolina, Maryland, New Jersey, and Connecticut, would suffer by such a regulation, and would never agree to it.

Mr. BLAND was equally against the regulation. He thought it replete with injustice, and repugnant to every idea of finance. He observed, that this point had been fully canvassed at the time when the impost was originally recommended by Congress, and finally exploded. He was, indeed, he said, opposed to the whole motion of Mr. RUTLEDGE. Nothing would be a secure pledge to creditors that was not placed out of the control of the grantors. As long as it was in the power of the States to repeal their grants in this respect, suspicions would prevail, and would prevent loans. Money ought to be appropriated by the States as it is by the Parliament of Great Britain. He proposed that the revenue to be solicited from the States should be irrevocable by them without the consent of Congress, or of nine of the States. He disapproved of any determinate limitation to the continuance of the revenue, because the continuance of the debt could not be fixed, and that

was the only rule that could be proper or satisfactory. He said he should adhere to these ideas in the face of the act of Virginia repealing her assent to the impost; that it was trifling with Congress to enable them to contract debts, and to withhold from them the means of fulfilling their contracts.

Mr. LEE said, he seconded the motion of Mr. RUTLEDGE, because he thought it most likely to succeed; that he was persuaded the States would not concur in the impost on trade without a limitation of time affixed to it. With such a limitation, and the right of collection, he thought Virginia, Rhode Island, and the other States, probably would concur. The objection of his colleague, Mr. BLAND, he conceived to be unfounded. No act of the States could be irrevocable, because, if so called, it might, notwithstanding, be repealed. But he thought there would be no danger of a repeal, observing that the national faith was all the security that was given in other countries, or that could be given. He was sensible that something was, of necessity, to be done in the present alarming crisis, and was willing to strike out the clause crediting the States for their respective collections of the revenue on trade, as it was supposed that it would impede the measure.

Mr. HAMILTON disliked every plan that made but partial provision for the public debts, as an inconsistent and dishonorable departure from the declaration made by Congress on that subject. He said the domestic creditors would take the alarm at any distinctions unfavorable to their claims; that they would withhold their influence from any such measures recommended by Congress; and that it must

be principally from their influence on their respective Legislatures, that success could be expected to any application from Congress for a general revenue.

THURSDAY, JANUARY 30TH.

The answer to the memorials from the Legislature of Pennsylvania was agreed to as it stands on the Journal, New Jersey alone dissenting.

In the course of its discussion, several expressions were struck out which seemed to reprehend the States for the deficiency of their contributions. In favor of these expressions it was urged that they were true, and ought to be held forth as the cause of the public difficulties, in justification of Congress. On the other side it was urged that Congress had, in many respects, been faulty as well as the States, particularly, in letting their finances become so disordered before they began to apply any remedy; and that if this were not the case, it would be more prudent to address to the States a picture of the public distresses and danger, than a satire on their faults; since the latter would only irritate them, whereas the former would tend to lead them into the measures supposed by Congress to be essential to the public interest.

The propriety of mentioning to the Legislature of Pennsylvania the expedient into which Congress had been driven, of drawing bills on Spain and Holland without previous warrant; the disappointment attending it, and the deductions ultimately ensuing

from the aids destined to the United States by the Court of France, was also a subject of discussion. On one side, it was represented as a fact which, being dishonorable to Congress, ought not to be proclaimed by them, and that in the present case it could answer no purpose. On the other side, it was contended that it was already known to all the world; that, as a glaring proof of the public embarrassments, it would impress the Legislature with the danger of making those separate appropriations which would increase the embarrassments; and particularly would explain, in some degree, the cause of the discontinuance of the French interest due on the loan-office certificates.

Mr. RUTLEDGE, and some other members, having expressed less solicitude about satisfying or soothing the creditors within Pennsylvania, through the Legislature, than others thought ought to be felt by every one, Mr. WILSON, adverting to it with some warmth, declared that if such indifference should prevail, he was little anxious what became of the answer to the memorials. Pennsylvania, he was persuaded, would take her own measures without regard to those of Congress, and that she ought to do so. She was willing, he said, to sink or swim according to the common fate, but that she would not suffer herself, with a mill-stone of six millions* of the Continental debt about her neck, to go to the bottom alone.

* He supposed that sum due, by the United States, to citizens of Pennsylvania, for loans.

FRIDAY, JANUARY 31ST.

The instruction to the Virginia Delegates from that State, relative to tobacco exported to New York, under passport from the Secretary of Congress, was referred to a committee. Mr. FITZSIMMONS moved, that the information received from said State of its inability to contribute more than —— towards the requisitions of Congress, should be also committed. Mr. BLAND saw no reason for such commitment. Mr. GORHAM was in favor of it. He thought such a resolution from Virginia was of the most serious import, especially if compared with her withdrawal of her assent to the impost. He said, with much earnestness, that if one State should be connived at in such defaults, others would think themselves entitled to a like indulgence. Massachusetts, he was sure, had a better title to it than Virginia. He said the former had expended immense sums in recruiting her line, which composed almost the whole Northern army; that one million two hundred thousand pounds (a dollar at six shillings) had been laid out; and that without this sum the army would have been disbanded.

Mr. FITZSIMMONS, abetting the animadversions on Virginia, took notice that of —— dollars required by Congress from her for the year 1782, she had paid the paltry sum of thirty-five thousand dollars, and was, notwithstanding, endeavouring to play off from further contributions. The commitment took place without opposition.

The sub-committee, consisting of Mr. MADISON, Mr.

CARROLL and Mr. WILSON, had this morning a conference with the Superintendent of Finance, on the best mode of estimating the value of land throughout the United States. The Superintendent was no less puzzled on the subject than the Committee had been. He thought some essay ought to be made for executing the Confederation, if it should be practicable; and if not, to let the impracticability appear to the States. He concurred with the sub-committee, also, in opinion, that it would be improper to refer the valuation to the States, as mutual suspicions of partiality, if not a real partiality, would render the result a source of discontent; and that even if Congress should expressly reserve to themselves a right of revising and rejecting it, such a right could not be exercised without giving extreme offence to the suspected party. To guard against these difficulties it was finally agreed, and the sub-committee accordingly reported to the Grand Committee—

“That it is expedient to require of the several States a return of all surveyed and granted land within each of them; and that, in such returns, the land be distinguished into occupied and unoccupied.

“That it also was expedient to appoint one Commissioner for each State, who should be empowered to proceed, without loss of time, into the several States, and to estimate the value of the lands therein according to the returns above mentioned, and to such instructions as should, from time to time, be given him for that purpose.”

This report was hurried in to the Grand Committee for two reasons; first, it was found that Mr. RUT-

LEDGE, Mr. BLAND, and several others, relied so much on a valuation of land, and connected it so essentially with measures for restoring public credit, that an extreme backwardness on their part affected all these measures, whilst the valuation of land was left out. A second reason was, that the sub-committee were afraid that suspicions might arise of intentional delay, in order to confine the attention of Congress to general funds, as affording the only prospect of relief.

The Grand Committee, for like reasons, were equally impatient to make a report to Congress; and accordingly, after a short consultation, the question was taken whether the above report of the sub-committee, or the Report referred to them, should be preferred. In favor of the first were Mr. WILSON, Mr. CARROLL, Mr. MADISON, Mr. ELMORE, Mr. HAMILTON. In favor of the second were Mr. ARNOLD, Mr. DYER, Mr. HAWKINS, Mr. GORHAM, Mr. RUTLEDGE, and Mr. GILMAN. So the latter was immediately handed in to Congress, and referred to a committee of the whole, into which they immediately resolved themselves.

A motion was made by Mr. BLAND, seconded by Mr. MADISON, that this report should be taken up in preference to the subject of general funds. Mr. WILSON opposed it as irregular and inconvenient to break in on an unfinished subject; and supposed that, as some further experiment must be intended than merely a discussion of the subject in Congress, before the subject of general funds would be seriously resumed, he thought it inadvisable to interrupt the latter.

Mr. MADISON answered that the object was not to retard the latter business, but to remove an obstacle

to it; that as the two subjects were, in some degree, connected, as means of restoring public credit, and inseparably connected in the minds of many members, it was but reasonable to admit one as well as the other to a share of attention; that if a valuation of land should be found, on mature deliberation, to be as efficacious a remedy as was by some supposed, it would be proper at least to combine it with the other expedient, or perhaps to substitute it altogether; if the contrary should become apparent, its patrons would join the more cordially in the object of a general revenue.

Mr. HAMILTON concurred in these ideas, and wished the valuation to be taken up, in order that its impracticability and futility might become manifest. The motion passed in the affirmative, and the report was taken up.

The phraseology was made more correct in several instances.

A motion was made by Mr. BOUDINOT, seconded by Mr. ELLSWORTH, to strike out the clause requiring a return of "*the names of the owners*," as well as the quantity of land. Mr. ELLSWORTH also contended for a less specific return of the parcels of land. The objection against the clause was, that it would be extremely troublesome, and equally useless. Mr. BLAND thought these specific returns would be a check on frauds, and the suspicion of them. Mr. WILLIAMSON was of the same opinion, as were also Mr. LEE, Mr. GORHAM, and Mr. RAMSAY.* The motion was withdrawn by Mr. BOUDINOT.

* Mr. DYER ludicrously proposed, as a proviso to the scheme of referring the valuation to the States, "that each of the States should cheat equally."

SATURDAY and MONDAY.

No Congress.

TUESDAY, FEBRUARY 4TH.

An indecent and tart remonstrance was received from Vermont against the interposition of Congress in favor of the persons who had been banished, and whose effects had been confiscated. A motion was made by Mr. HAMILTON, seconded by Mr. DYER, to commit it. Mr. WOLCOTT, who had always patronized the case of Vermont, wished to know the views of a commitment. Mr. HAMILTON said his view was to fulfil the resolution of Congress which bound them to enforce the measure. Mr. DYER said his was, that so dishonorable a menace might be as quickly as possible renounced. He said General Washington was in favor of Vermont; that the principal people of New England were all supporters of them, and that Congress ought to rectify the error into which they had been led, without longer exposing themselves to reproach on this subject. It was committed without dissent.

Mr. WILSON informed Congress that the Legislature of Pennsylvania, having found the ordinance of Congress erecting a court for piracies so obscure on some points that they were at a loss to adapt their laws to it, had appointed a committee to confer with a committee of Congress. He accordingly moved, in behalf of the Pennsylvania delegation, that a com-

mittee might be appointed for that purpose. After some objections by Mr. MADISON against the impropriety of holding a communication with Pennsylvania through committees, when the purpose might be as well answered by a memorial, or an instruction to its Delegates, a committee was appointed, consisting of Mr. RUTLEDGE, Mr. MADISON, and Mr. WILSON.

The Report proposing a commutation for the half-pay due to the army was taken up. On a motion to allow five and a half years' whole pay in gross to be funded and bear interest—this being the rate taken from Dr. Price's calculation of annuities—New Hampshire was, no; Rhode Island, no; Connecticut, no; New Jersey, no; Virginia, aye (Mr. LEE, no;) other States, aye: so the question was lost. Five years was then proposed, on which New Hampshire was, no; Rhode Island, no; Connecticut, no; New Jersey, no: so there were but six ayes, and the proposition was lost. Mr. WILLIAMSON proposed five and a quarter, and called for the yeas and nays. Messrs. WOLCOTT and DYER observed, that they were bound by instructions on this subject. Mr. ARNOLD said the case was the same with him. They also queried the validity of the act of Congress which had stipulated half-pay to the army, as it had passed before the Confederation, and by a vote of less than seven States. Mr. MADISON said that he wished, if the yeas and nays were called, it might be on the true calculation, and not on an arbitrary principle of compromise; as the latter, standing singly on the Journal, would not express the true ideas of the yeas, and might even subject them to contrary interpretations. He said that the act was valid, because it was de-

cided according to the rule then in force; and that, as the officers had served under the faith of it, justice fully corroborated it, and that he was astonished to hear these principles controverted. He was also astonished to hear objections against a commutation come from States in compliance with whose objections against the half-pay itself this expedient had been substituted. Mr. WILSON expressed his surprise, also, that instructions should be given which militated against the most peremptory and lawful engagements of Congress, and said that if such a doctrine prevailed the authority of the Confederacy was at an end. Mr. ARNOLD said that he wished the report might not be decided on at this time; that the Assembly of Rhode Island was in session, and he hoped to receive their further advice. Mr. BLAND enforced the ideas of Mr. MADISON and Mr. WILSON. Mr. GILMAN thought it would be best to refer the subject of half-pay to the several States, to be settled between them and their respective lines. By general consent the Report lay over.

Mr. LEE communicated to Congress a letter he had received from Mr. Samuel Adams, dated Boston, December the twenty-second, 1782, introducing Mr. ———, from Canada, as a person capable of giving intelligence relative to affairs in Canada, and the practicability of uniting that province with the confederated States. The letter was committed.

In Committee of the Whole on the Report concerning a valuation of the lands of the United States—

A motion was made by Mr. RUTLEDGE, which took the sense of Congress on this question, whether the rule of apportionment, to be grounded on the

proposed valuation, should continue in force until revoked by Congress, or a period be now fixed, beyond which it should not continue in force. The importance of the distinction lay in the necessity of having seven votes on every act of Congress. The Eastern States were, generally, for the latter; supposing that the Southern States, being impoverished by the recent havoc of the enemy, would be underrated in the first valuation. The Southern States were, for the same reason, interested in favor of the former. On the question there were six ayes only, which produced a dispute whether, in a Committee of the Whole, a majority would decide, or whether seven votes were necessary.

In favor of the first rule it was contended by Mr. GORHAM, and others, that in committees of Congress the rule always is that a majority decides.

In favor of the latter it was contended, that if the rule of other committees applies to a Committee of the Whole, the vote should be individual *per capita*, as well as by a majority; that in other deliberative assemblies the rules of *voting* were not varied in Committees of the Whole, and that it would be inconvenient in practice to report to Congress, as the sense of the body, a measure approved by four or five States, since there could be no reason to hope that, in the same body, in a different form, seven States would approve it; and, consequently, a waste of time would be the result.

The Committee rose, and Congress adjourned.

WEDNESDAY, FEBRUARY 5TH, and THURSDAY,
FEBRUARY 6TH.

In order to decide the rule of voting in a Committee of the Whole, before Congress should go into the said Committee, Mr. BLAND moved that the rule should be to vote by States, and *the majority of States in committee to decide*. Mr. WILSON moved to postpone Mr. BLAND's motion, in order to resolve that the rule be to vote by States, and according to the same rules which govern Congress; as this general question was connected, in the minds of members, with the particular question to which it was to be immediately applied, the motion for postponing was negatived, chiefly by the Eastern States. A division of the question on Mr. BLAND's motion was then called for, and the first part was agreed to, as on the Journal. The latter clause, to wit, a majority to decide, was negatived; so nothing as to the main point was determined. In this uncertainty, Mr. OSGOOD proposed that Congress should resolve itself into a Committee of the Whole. Mr. CARROLL, as Chairman, observed, that as the same difficulty would occur, he wished Congress would, previously, direct him how to proceed. Mr. HAMILTON proposed that the latter clause of Mr. BLAND's motion should be reconsidered, and agreed to, wrong as it was, rather than have no rule at all. In opposition to which it was said, that there was no more reason why one, and that not the minor side, should wholly yield to the inflexibility of the other, than *vice versa*; and that if they should be willing to yield, on the present occasion, it would be

better to do it tacitly than to saddle themselves with an express and perpetual rule, which they judged improper. This expedient was assented to, and Congress accordingly went into a Committee of the Whole.

The points arising on the several amendments proposed were, first, the period beyond which the rule of the first valuation should not be in force. On this point Mr. COLLINS proposed five years, Mr. BLAND ten years, Mr. BOUDINOT seven years: New Jersey having instructed her delegates thereon. The Connecticut Delegates proposed three years. On the question for three years, New Hampshire, no; Massachusetts, no; Rhode Island, aye; Connecticut, aye; all the other States, no. On the question for five years, all the States aye, except Connecticut.

The second point was whether, and how far, the rule should be retrospective. On this point the same views operated as on the preceding. Some were against any retrospection; others for extending it to the whole debt, and others for extending it so far as was necessary for liquidating and closing the accounts between the United States and each individual State.

The several motions expressive of these different ideas were at length withdrawn, with a view that the point might be better digested, and more accurately brought before Congress; so the Report was agreed to in the Committee, and made to Congress. When the question was about to be put, Mr. MADISON observed, that the Report lay in a great degree of confusion; that several points had been decided in a way too vague and indirect to ascertain the real

sense of Congress; that other points involved in the subject had not received any decision; and proposed the sense of Congress should be distinctly and successively taken on all of them, and the result referred to a special committee to be digested, &c. The question was, however, put, and negatived, the votes being as they appear on the Journal. The reasons on which Mr. HAMILTON's motion was grounded appear from its preamble.

FRIDAY, FEBRUARY 7TH.

On motion of Mr. LEE, who had been absent when the report was yesterday negatived, the matter was reconsidered. The plan of taking the sense of Congress on the several points, as yesterday proposed by Mr. MADISON, was generally admitted as proper.

The first question proposed in Committee of the Whole by Mr. MADISON, was: Shall a valuation of land within the United States, as directed by the Articles of Confederation, be immediately attempted?—eight ayes; New York, only, no. The States present were New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina; Rhode Island, one member; Maryland, one.

By Mr. WILSON,

Q. Shall each State be called on to return to the United States, in Congress assembled, the number of acres granted to, or surveyed for, any person, and also the number of buildings within it?—eight ayes; North Carolina, no—supposing this not to accord

with the plan of referring the valuation to the States, which was patronized by that Delegation. A supplement to this question was suggested as follows :

Q. Shall the male inhabitants be also returned, the blacks and whites being therein distinguished ?—aye; North Carolina, no—for the same reason as above. Connecticut divided.

By Mr. MADISON,

Q. Shall the States be called on to return to Congress an estimate of the value of their lands, with the buildings and improvements within each, respectively ? After some discussion on this point, in which the inequalities which would result from such estimates were set forth at large, and effects of such an experiment in Virginia had been described by Mr. MERCER, and a comparison of an average valuation in Pennsylvania and Virginia, which amounted in the latter to fifty per cent. more than in the former—although the real value of land in the former was confessedly thrice that of the latter—had been quoted by Mr. MADISON, the apprehensions from a reference of any thing more to the States, than a report of simple facts, increased ; and on the vote the States were as follows: New Hampshire, Massachusetts, New Jersey, Pennsylvania, Virginia, no—Mr. BLAND, aye; Mr. LEE, silent—Connecticut, North Carolina, South Carolina, aye; New York, divided: so it passed in the negative.

By Mr. MADISON,

Q. Shall a period be now fixed, beyond which the rule to be eventually established by Congress shall not be in force ?—aye, unanimously.

By Mr. MADISON,

Q. What shall that period be? Connecticut was again for three years; which being rejected, five years passed unanimously.

By Mr. MADISON,

Q. Shall the rule so to be established have retrospective operation, so far as may be necessary for liquidating and closing the accounts between the United States and each particular State?—aye; Connecticut, no. Mr. DYER and Mr. MERCER understood this as making the amount of the several requisitions of Congress, and not of the payments by the States, the standard by which the accounts were to be liquidated, and thought the latter the just quantum for retrospective appointment. Their reasoning, however, was not fully comprehended.

SATURDAY, FEBRUARY 8TH.

Committee of the Whole.

Mr. MERCER revived the subject of retrospective operation, and after it had been much discussed, and the difference elucidated which might happen between apportioning, according to the first valuation which should be made, merely the sums paid on the requisitions of Congress, and apportioning the whole requisitions, consisting of the sums paid and the deficiencies, which might not be paid until some distant day, when a different rule, formed under different circumstances of the States, should be in force, the assent to the last question, put yesterday, was

reversed, and there was added to the preceding question, after "five years,"—"and shall operate as a rule for apportioning the sums necessary to be raised for supporting the public credit and other contingent expenses, and for adjusting all accounts between the United States and each particular State, for moneys paid or articles furnished by them, and for no other purpose whatsoever." On this question there were six ayes; so it became a vote of the Committee of the Whole.

MONDAY, FEBRUARY 10TH.

For the Report of the Committee on the Resolutions of Virginia, concerning the contract under which tobacco was to be exported to New York, and the admission of circumstantial proof of accounts against the United States, where legal vouchers had been destroyed by the enemy, see the Journal of this date.

Mr. MERCER informed Congress that this matter had made much noise in Virginia; that she had assented to the export of the first quantity, merely out of respect to Congress, and under an idea that her rights of sovereignty had been encroached upon; and that, as a *further quantity* had been exported *without the license of the State*, the question was unavoidable, whether the authority of Congress extended to the act. He wished, therefore, that Congress would proceed to decide the question.

Mr. FITZSIMMONS, in behalf of the Committee,

observed that they went no further than to examine whether the proceedings of the officers of Congress were conformable to the resolution of Congress, and not whether the latter were within the power of Congress.

Mr. LEE said, the report did not touch the point, that the additional quantity had been exported without application to the State, although the first quantity was licensed by the State with great reluctance, in consequence of the request of Congress, and of assurances against a repetition; and that the Superintendent and Secretary of Congress ought, at any rate, to have made application to the Executive before they proceeded to further exportations.

Mr. RUTLEDGE said, the report went to the very point, that Virginia suspected the resolutions of Congress had been abused by the officers of Congress, and the report showed that no such abuse had taken place; that if this information was not satisfactory, and the State should contest the right of Congress in the case, it would then be proper to answer it on that point, but not before. He said, if the gentleman (Mr. LEE) meant the Committee authorized by Congress on the 29th day of May 1782 to make explanations on the subject to the Legislature of Virginia, had given the assurances he mentioned, he must be mistaken; for none such had been given. He had, he said, formed notes of his remarks to the Legislature, but, according to his practice, had destroyed them after the occasion was over, and therefore could only assert this from memory; that, nevertheless, his memory enabled him to do it with certainty.

Mr. LEE, in explanation, said he did not mean the Committee; that the abuse complained of was not that the resolutions of Congress had been exceeded, but that the export had been undertaken without the sanction of the State. If the acts were repeated, he said, great offence would be given to Virginia.

The Report was agreed to, as far as the tobacco was concerned, without a dissenting voice; Mr. LEE uttering a *no*, but not loud enough to be heard by Congress or the Chair. The part relating to the loss of vouchers was unanimously agreed to.

Committee of the Whole.

The Report for the valuation of land was amended by the insertion of "distinguishing dwelling-houses from others."

The Committee adjourned, and the Report was made to Congress.

Mr. LEE and Mr. GERVAIS moved that the Report might be postponed to adopt another plan, to wit, "to call on the States to return a valuation, and to provide that, in case any return should not be satisfactory to all parties, persons should be appointed by Congress, and others by the States, respectively, to adjust the case finally." On this question New Hampshire was divided; Massachusetts, no; Rhode Island, aye; Connecticut, no; New York, divided; New Jersey, no; Pennsylvania, no; Virginia, no; Mr. MADISON and Mr. JONES, no; Mr. LEE and Mr. BLAND, aye; North Carolina, aye; South Carolina, aye; so the motion failed.

TUESDAY, FEBRUARY 11TH.

The Report made by the Committee of the Whole having decided that the mode to be grounded on the return of facts called for from the States ought now to be ascertained—

Mr. RUTLEDGE proposed, seconded by Mr. GILMAN, that the States should be required to name commissioners, each of them one, who, or any nine of them, should be appointed and empowered by Congress to settle the valuation. Mr. GORHAM was against it, as parting with a power which might be turned by the States against Congress. Mr. WOLCOTT against it; declares his opinion that the Confederation ought to be amended by substituting numbers of inhabitants as the rule; admits the difference between freemen and blacks; and suggests a compromise, by including in the numeration such blacks only as were within sixteen and sixty years of age. Mr. WILSON was against relinquishing such a power to the States; proposes that the commissioners be appointed by Congress, and their proceedings subject to the ratification of Congress. Mr. MERCER was for submitting them to the revision of Congress; and this amendment was received. Mr. PETERS against the whole scheme of valuation, as holding out false lights and hopes to the public. Mr. RUTLEDGE thinks commissioners appointed by the States may be trusted, as well as commissioners appointed by Congress, or as Congress themselves. Mr. WILSON observes, that if appointed by the States they will bring with them the spirit of agents for their respective States; if

appointed by Congress they will consider themselves as servants of the United States at large, and be more impartial.

Mr. GORHAM, seconded by Mr. WILSON, proposes to postpone, in order to require the States to appoint commissioners, to give Congress information for a basis for a valuation. On the question, New Hampshire, no; Massachusetts, aye; Rhode Island, aye; Connecticut, aye; New York, aye; New Jersey, aye; Pennsylvania, aye; Virginia, no; North Carolina, no; South Carolina, no; so it was decided in the negative.

To make the resolution more clear, after the words "or any nine of them," the words "concurring therein" were added. Mr. RUTLEDGE says, that subjecting the acts of the commissioners to the revision of Congress had so varied his plan that he should be against it. On the main question, New Hampshire, aye; Massachusetts, aye; Rhode Island, aye; Connecticut, aye; New York, no; New Jersey, no; Pennsylvania, aye; Virginia, aye (Mr. MADISON, no;) North Carolina, aye; South Carolina, aye; so it was agreed to; and the resolution, declaring that a mode should now be fixed, struck out, as executed. The whole report was then committed to a special committee, consisting of Mr. RUTLEDGE, Mr. GORHAM, and Mr. GILMAN, to be formed into a proper act.⁵⁴

WEDNESDAY, FEBRUARY 12TH.

The declaration of Congress as to general funds, passed on January the twenty-ninth, appears on the

Journals; and Congress resolved itself into a Committee of the Whole, in order to consider the funds to be adopted and recommended to the States.

On motion of Mr. MIFFLIN, the impost of five per cent. was taken into consideration. As it seemed to be the general opinion, that some variations from the form in which it had been first recommended would be necessary for reconciling the objecting States to it, it was proposed that the sense of the Committee should be taken on that head. The following questions were accordingly propounded:

Question 1. Is it expedient to alter the impost as recommended on the —— day of ——, 1781?

Mr. LEE said the States, particularly Virginia, would never concur in the measure unless the term of years were limited, the collection left to the States, and the appropriation annually laid before them.

Mr. WOLCOTT thought the revenue ought to be commensurate, in point of time as well as amount, to the debt; that there was no danger in trusting Congress, considering the responsible mode of its appointment; and that to alter the plan would be a mere condescension to the prejudices of the States.

Mr. GORHAM favored the alteration for the same reason as Mr. LEE. He said private letters informed him that the opposition to the impost law was gaining ground in Massachusetts, and the repeal of Virginia would be very likely to give that opposition the ascendance. He said our measures must be accommodated to the sentiments of the States, whether just or unreasonable.

Mr. HAMILTON dissented from the particular alter-

ations suggested, but did not mean to negative the question.

Mr. BLAND was for conforming to the ideas of the States as far as would, in any manner, consist with the object.

On the question the affirmative was unanimous, excepting the voice of Mr. WOLCOTT.

Question 2. Shall the term of duration be limited to twenty-five years ?

Mr. MERCER professed a decided opposition to the principle of general revenue ; observed that the liberties of England had been preserved by a separation of the purse from the sword ; that, until the debts should be liquidated and apportioned, he would never assent, in Congress or elsewhere, to the scheme of the impost.

Mr. BLAND proposed an alternative of twenty-five years, or until the requisitions of Congress, according to the Articles of Confederation, shall be found adequate. On this proposition the votes were, of New Hampshire, divided ; Rhode Island, no ; Connecticut, no ; New York, no ; New Jersey, no ; Pennsylvania, no ; Virginia, aye ; North Carolina, divided ; South Carolina, aye ; so the proposition was not agreed to.

On the main question for twenty-five years it was voted in the affirmative.

Question 3. Shall the appointment of collectors be left to the States ; they to be amenable to, and under the control of, Congress ?—aye ; several States, as New York and Pennsylvania, dissenting.

THURSDAY, FEBRUARY 13TH.

The Committee report to Congress the alterations yesterday agreed on with respect to the five per cent. impost.

The Deputy Secretary at War reported to Congress the result of the inquiry directed by them on the 24th day of January, into the seizure of goods destined for the British prisoners of war, under passport from General Washington. From this Report, it appeared that some of the seizors had pursued their claim under the law of the State; and that, in consequence, the goods had been condemned, and ordered for sale. The papers were referred to a committee, consisting of Mr. RUTLEDGE, Mr. GORHAM, and Mr. LEE, who, after having retired for a few moments, reported that the Secretary of War should be authorized and directed to cause the goods to be taken from the places where they had been deposited; to employ such force as would be sufficient; and that the Duke de Lauzun, whose legion was in the neighbourhood, should be requested to give the Secretary such aid as he might apply for.

This Report was generally regarded by Congress as intemperate, and the proposed recourse to the French legion as flagrantly imprudent. Mr. HAMILTON said, that if the object had been to embroil the country with their allies, the expedient would have been well conceived.* He added, that the exertion of force would not, under these circumstances, meet

* This was an oblique allusion to Mr. LEE, whose enmity to the French was suspected by him, &c.

the sense of the people at large. Mr. GORHAM said, he denied this with respect to the people of Massachusetts.

Mr. LEE, on the part of the Committee, said that the Duke de Lauzun had been recurred to as being in the neighbourhood, and having cavalry under his command which would best answer the occasion; and that the Report was founded on wise and proper considerations.

Mr. MERCER, Mr. WILLIAMSON, Mr. RAMSAY, Mr. WILSON, and Mr. MADISON, strenuously opposed the Report, as improper altogether, as far as it related to the French legion, and in other respects so until the State of Pennsylvania should, on a summons, refuse to restore the articles seized.

Mr. RUTLEDGE, with equal warmth, contended for the expediency of the measures reported.

Mr. MERCER and Mr. MADISON at length proposed that Congress should assert the right on this subject, and summon the State of Pennsylvania to redress the wrong immediately. The Report was recommended, with this proposition, and Mr. WILSON and Mr. MERCER added to the Committee.

The speech of the King of Great Britain on the fifth of December, 1782, arrived and produced great joy in general, except among the merchants who had great quantities of merchandize in store, the price of which immediately and materially fell. The most judicious members of Congress, however, suffered a great diminution of their joy from the impossibility of discharging the arrears and claims of the army, and their apprehensions of new difficulties from that quarter.

FRIDAY, FEBRUARY 14TH.

Mr. JONES, Mr. RUTLEDGE, and Mr. WILSON, to whom had been referred, on Tuesday last, a letter from Mr. Jefferson, stating the obstacles to his voyage, reported that they had conferred with the Agent of Marine, who said there was a fit vessel ready for sea, in this port, but was of opinion the arrival of the British King's speech would put a stop to the sailing of any vessels from the ports of America until something definitive should take place; and that if Congress judged fit that Mr. Jefferson should proceed immediately to Europe, it would be best to apply to the French Minister for one of the frigates in the Chesapeake. The general opinion of Congress seemed to be, that, under present circumstances, he should suspend his voyage until the further order of Congress; and on motion of Mr. GORHAM, seconded by Mr. WOLCOTT, the Secretary of Foreign Affairs was accordingly, without opposition, directed to make this known to Mr. Jefferson.

The report of the Committee for obtaining a valuation of land was made and considered. See the Journal of this date.

MONDAY, FEBRUARY 17TH.

The report respecting a valuation of land being lost, as appears from the Journal, it was revived by the motion of Mr. DYER, seconded by Mr. MERCER, as it stands; the appointment of Commissioners by

Congress for adjusting the quotas being changed for a Grand Committee, consisting of a Delegate present from each State, for that purpose.

A motion was made to strike out the clause requiring the concurrence of nine voices in the report to Congress; and on the question, shall the words stand? the States being equally divided, the clause was expunged. It was thereafter reconsidered and re-inserted.

The whole report was agreed to, with great reluctance, by almost all—by many from a spirit of accommodation only, and the necessity of doing something on the subject. Some of those who were in the negative, particularly Mr. MADISON, thought the plan not within the spirit of the Confederation; that it would be ineffectual, and that the States would be dissatisfied with it.

A motion was made by Mr. HAMILTON, seconded by Mr. FITZSIMMONS, to renew the recommendation of the ——— February, 1782, for vesting Congress with power to make abatements in favor of States, parts of which had been in possession of the enemy. It was referred to a committee.

TUESDAY, FEBRUARY 18TH.

Committee of the Whole on the subject of general funds.

Mr. RUTLEDGE and Mr. MERCER proposed, that the impost of five per cent., as altered and to be recommended to the States, should be appropriated

exclusively, first to the interest of the debt to the army, and then, in case of surplus, to the principal. Mr. RUTLEDGE urged, in support of this motion, that it would be best to appropriate this fund to the army as the most likely to be obtained, as their merits were superior to those of all other creditors, and as it was the only thing that promised, what policy absolutely required, some satisfaction to them.

Mr. WILSON replied, that he was so sensible of the merits of the army, that if any discrimination were to be made among the public creditors he should not deny them perhaps a preference, but that no such discrimination was necessary; that the ability of the public was equal to the whole debt, and that before it be split into different descriptions the most vigorous efforts ought to be made to provide for it entire. That we ought first, at least, to see what funds could be provided, to see how far they would be deficient, and then, in the last necessity only, to admit discriminations.

Mr. GORHAM agreed with Mr. WILSON. He said an exclusive appropriation to the army would, in some places, be unpopular, and would prevent a compliance of those States whose citizens were the greatest creditors of the United States; since, without the influence of the public creditors, the measure could never be carried through the States; and these, if excluded from the appropriation, would be even interested in frustrating the measure, and keeping, by that means, their cause a common one with the army.

Mr. MERCER applauded the wisdom of the Confederation in leaving the provision of money to the States;

said that when this plan was deviated from by Congress, their objects should be such as were best known and most approved; that the States were jealous of one another, and would not comply unless they were fully acquainted with, and approved, the purpose to which their money was to be applied; that nothing less than such a preference of the army would conciliate them; that no civil creditor would dare to put his claims on a level with those of the army, and insinuated that the speculations which had taken place in loan-office certificates might lead to a revision of that subject on principles of equity; that if too much were asked from the States they would grant nothing. He said that it had been alleged, that the large public debt, if funded under Congress, would be a cement of the Confederacy. He thought, on the contrary, it would hasten its dissolution; as the people would feel its weight in the most obnoxious of all forms, that of taxation.

On the question the States were all no, except South Carolina, which was aye.*

A motion was made by Mr. RUTLEDGE, seconded by Mr. BLAND, to change the plan of the impost in such a manner, as that a tariff might be formed for all articles that would admit of it; and that a duty, *ad valorem*, should be collected only on such articles as would not admit of it.

In support of such alteration, it was urged that it would lessen the opportunity of collusion between collector and importer, and would be more equal among the States. On the other side it was alleged,

* Virginia—Mr. JONES, Mr. MADISON, Mr. BLAND, no; Mr. LEE, Mr. MERCER, aye.

that the States had not objected to that part of the plan, and a change might produce objections; that the nature and variety of the imports would require necessarily the collection to be *ad valorem*, on the greater part of them; that the forming of a book of rates would be attended with great difficulties and delays; and that it would be in the power of Congress, by raising the rate of the article, to augment the duty beyond the limitation of five per cent., and that this consideration would excite objections on the part of the States. The motion was negatived.

A motion was made by Mr. HAMILTON, seconded by Mr. WILSON, that whereas Congress were desirous that the motives and views of their measures should be known to their constituents, in all cases where the public safety would admit, when the subject of finances was under debate, the doors of Congress should be open. Congress adjourned, it being the usual hour, and the motion being generally disrelished. The Pennsylvania Delegates said, privately, that they had brought themselves into a critical situation by dissuading their constituents from separate provision for creditors of the United States, within Pennsylvania, hoping that Congress would adopt a general provision, and they wished their constituents to see the prospect themselves, and to witness the conduct of their Delegates. Perhaps the true reason was, that it was expected the presence of public auditors, numerous and weighty, in Philadelphia, would have an influence, and that it would be well for the public to come more fully to the knowledge of the public finances.

A letter was received from Mr. William Lee, at

Ghent, notifying the desire of the Emperor of Austria to form a commercial treaty with the United States, and to have a resident from them. Committed to MESSRS. IZARD, GORHAM and WILSON.

WEDNESDAY, FEBRUARY 19TH.

The motion, made yesterday by Mr. HAMILTON, for opening the doors of Congress when the subject of the finances should be under debate, was negatived; Pennsylvania alone being aye.

A motion was made by Mr. HAMILTON, seconded by Mr. BLAND, to postpone the clause of the report made by the Committee of the Whole, for altering the impost, viz: the clause limiting its duration to twenty-five years, in order to substitute a proposition declaring it to be inexpedient to limit the period of its duration; first, because it ought to be commensurate to the duration of the debt; secondly, because it was improper in the present stage of the business, and all the limitation of which it would admit had been defined in the resolutions of ———, 1782.

Mr. HAMILTON said, in support of his motion, that it was in vain to attempt to gain the concurrence of the States by removing the objections publicly assigned by them against the impost; that these were the ostensible and not the true objections; that the true objection on the part of Rhode Island was the interference of the impost with the opportunity afforded by their situation of levying contributions on Connecticut, &c., which received foreign supplies through the ports of Rhode Island; that the true

objection on the part of Virginia was her having little share in the debts due from the United States, to which the impost would be applied; that a removal of the avowed objections would not, therefore, remove the obstructions; whilst it would admit, on the part of Congress, that their first recommendation went beyond the absolute exigencies of the public; that Congress, having taken a proper ground at first, ought to maintain it till time should convince the States of the propriety of the measure.

Mr. BLAND said, that as the debt had been contracted by Congress with the concurrence of the States, and Congress was looked to for payment by the public creditors, it was justifiable and requisite in them to pursue such means as would be adequate to the discharge of the debt; and that the means would not be adequate, if limited in duration to a period within which no calculations had shown that the debt would be discharged.

On the motion, the States were, New Hampshire, divided; Massachusetts, no; Rhode Island, aye; Connecticut, divided; New York, aye; New Jersey, aye; Pennsylvania, aye; Virginia, no, (Mr. BLAND, aye;) North Carolina, aye; South Carolina, aye. Mr. RUTLEDGE said he voted for postponing, not in order to agree to Mr. HAMILTON's motion, but to move, and he accordingly renewed, the motion made in Committee of the Whole, viz: that the impost should be appropriated exclusively to the army. This motion was seconded by Mr. LEE.

Mr. HAMILTON opposed the motion strenuously; declared, that as a friend to the army as well as to the other creditors, and to the public at large, he would

never assent to such a partial distribution of justice; that the different States, being differently attached to different branches of the public debt, would never concur in establishing a fund which was not extended to every branch; that it was impolitic to divide the interests of the civil and military creditors, whose joint efforts in the States would be necessary to prevail on them to adopt a general revenue.

Mr. MERCER favored the measure, as necessary to satisfy the army, and to avert the consequences which would result from their disappointment on this subject; he pronounced, that the army would not disband until satisfactory provision should be made, and that this was the only attainable provision; but he reprobated the doctrine of permanent debt supported by a general and permanent revenue, and said that it would be good policy to separate, instead of cementing, the interests of the army and the other public creditors; insinuating that the claims of the latter were not supported by justice, and that the loan-office certificates ought to be revised.

Mr. FITZSIMMONS observed, that it was unnecessary to make a separate appropriation of the impost to one particular debt; since, if other funds should be superadded, there would be more simplicity and equal propriety in an aggregate fund for the aggregate debt funded; and that, if no other funds should be superadded, it would be unjust and impolitic; that the States whose citizens were the chief creditors of the United States would never concur in such a measure; that the mercantile interest, which comprehended the chief creditors of Pennsylvania, had

by their influence obtained the prompt and full concurrence of that State in the impost; and if that influence were excluded, the State would repeal its law. He concurred with those who hoped the army would not disband unless provision should be made for doing them justice.

Mr. LEE contended, that, as every body felt and acknowledged the force of the demands of the army, an appropriation of the impost to them would recommend it to all the States; that distinct and specific appropriations of distinct revenue was the only true system of finance, and was the practice of all other nations who were enlightened on this subject; that the army had not only more merit than the mercantile creditors, but that the latter would be more able, on a return of peace, to return to the business which would support them.

Mr. MADISON said, that, if other funds were to be superadded, as the gentleman (Mr. RUTLEDGE) who made the motion admitted, it was at least premature to make the appropriation in question; that it would be best to wait till all the funds were agreed upon, and then appropriate them respectively to those debts to which they should be best fitted; that it was probable the impost would be judged best adapted to the foreign debt, as the foreign creditors could not, like the domestic, ever recur to particular States for separate payments; and that, as this would be a revenue little felt, it would be prudent to assign it to those for whom the States would care least, leaving more obnoxious revenues for those creditors who would excite the sympathy of their countrymen, and could stimulate them to do justice.

Mr. WILLIAMSON was against the motion; said he did not wish the army to disband until proper provision should be made for them; that if force should be necessary to excite justice, the sooner force was applied the better.

Mr. WILSON was against the motion of Mr. RUTLEDGE; he observed that no instance occurred in the British history of finance in which distinct appropriations had been made to distinct debts *already* contracted; that a consolidation of funds had been the result of experience; that an aggregate fund was more simple, and would be most convenient; that the interest of the whole funded debt ought to be paid before the principal of any part of it; and, therefore, in case of surplus of the impost beyond the interest of the army debt, it ought, at any rate, to be applied to the interest of the other debts, and not, as the motion proposed, to the principal of the army debt. He was fully of opinion that such a motion would defeat itself; that, by dividing the interest of the civil from that of the military creditors, provision for the latter would be frustrated.

On the question on Mr. RUTLEDGE's motion, the States were, New Hampshire, no; Massachusetts, no; Connecticut, no; New Jersey, no; Virginia, no; (Mr. LEE and Mr. MERCER, aye;) North Carolina, no; South Carolina, aye.

On the clause reported by the Committee of the Whole, in favor of limiting the impost to twenty-five years, the States were, New Hampshire, aye; Massachusetts, aye; Connecticut, divided; (Mr. DYER, aye; Mr. WOLCOTT, no;) New York, no; New Jersey, no; Pennsylvania, aye; (Mr. WILSON and Mr. FITZ-

SIMMONS, no;) Virginia, aye (Mr. BLAND, no;) North Carolina, aye; South Carolina, aye; so the question was lost.

On the question whether the appointment of collectors of the impost shall be left to the States, the collectors to be under the control, and be amenable to Congress, there were seven ayes; New York and Pennsylvania being no, and New Jersey divided.

THURSDAY, FEBRUARY 20TH.

The motion for limiting the impost to twenty-five years having been yesterday lost, and some of the gentlemen who were in the negative desponding of an indefinite grant of it from the States, the motion was reconsidered.

Mr. WOLCOTT and Mr. HAMILTON repeat the inadequacy of a definite term. Mr. RAMSAY and Mr. WILLIAMSON repeat the improbability of an indefinite term being acceded to by the States, and the expediency of preferring a limited impost to a failure of it altogether.

Mr. MERCER was against the impost altogether, but would confine his opposition within Congress. He was in favor of the limitation, as an alleviation of the evil.

Mr. FITZSIMMONS animadverted on Mr. MERCER's insinuation yesterday touching the loan-office creditors, and the policy of dividing them from the military creditors; reprobated every measure which contravened the principles of justice and public faith; and asked, whether it were likely that Massachusetts and

Pennsylvania, to whose citizens half the loan-office debt was owing, would concur with Virginia, whose citizens had lent but little more than three hundred thousand dollars, in any plan that did not provide for that in common with other debts of the United States. He was against a limitation to twenty-five years.

Mr. LEE wished to know whether by loan-office creditors were meant the original subscribers. or the present holders of the certificates, as the force of their demands may be affected by this consideration.

Mr. FITZSIMMONS saw the scope of the question, and said that if another scale of depreciation was seriously in view he wished it to come out, that every one might know the course to be taken.

Mr. GORHAM followed the sentiments of the gentleman who last spoke; expressed his astonishment that a gentleman (Mr. LEE) who had enjoyed such opportunities of observing the nature of public credit should advance such doctrines as were fatal to it. He said it was time that this point should be explained; that if the former scale for the loan-office certificates was to be revised and reduced, as one member from Virginia (Mr. MERCER) contended, or a further scale to be made out for subsequent depreciation of certificates, as seemed to be the idea of the other member, (Mr. LEE,) the restoration of public credit was not only visionary, but the concurrence of the States in any arrangement whatever was not to be expected. He was in favor of the limitation, as necessary to overcome the objections of the States.

Mr. MERCER professed his attachment to the prin-

ciples of justice, but declared that he thought the scale by which the loans had been valued unjust to the public, and that it ought to be revised and reduced.

On the question for the period of twenty-five years, it was decided in the affirmative, seven States being in favor of it; New Jersey and New York only being no.

Mr. MERCER called the attention of Congress to the case of the goods seized under a law of Pennsylvania, on which the Committee had not yet reported, and wished that Congress would come to some resolution declaratory of their rights, and which would lead to an effectual interposition on the part of the Legislature of Pennsylvania. After much conversation on the subject, in which the members were somewhat divided as to the degree of peremptoriness with which the State of Pennsylvania should be called on, the resolution on the Journal, which is inserted below, was finally adopted; having been drawn up by the Secretary, and put into the hands of a Member, the resolution passed without any dissent : *

Resolved, That it does not appear to Congress that any abuse has been made of the passport granted by the Commander-in-Chief for the protection of clothing and other necessities sent from New York, in the ship Amazon, for the use of the British and German prisoners of war.

* The result proved that mildness was the soundest policy, the Legislature, in consequence, having declared the law under which the goods were seized, to be void, as contradictory to the Federal Constitution. Some of the members, in conversation, said, that if Congress had declared the law to be void, the displeasure of the Legislature might possibly have produced a different issue.

Resolved, That the goods imported in the said ship Amazon, and contained in the returns laid before Congress by the Assistant Secretary at War, are fully covered and protected by the said passport, and ought to be sent with all expedition, and without any let or hindrance, to the prisoners for whose use they were designed.

[The evening of this day was spent at Mr. FITZSIMMONS' by Mr. GORHAM, Mr. HAMILTON, Mr. PETERS, Mr. CARROLL and Mr. MADISON. The conversation turned on the subject of revenue, under the consideration of Congress, and on the situation of the army. The conversation on the first subject ended in a general concurrence (Mr. HAMILTON excepted) in the impossibility of adding to the impost on trade any taxes that would operate equally throughout the United States, or be adopted by them. On the second subject, Mr. HAMILTON and Mr. PETERS, who had the best knowledge of the temper, transactions, and views of the army, informed the company, that it was certain that the army had secretly determined not to lay down their arms until due provision and a satisfactory prospect should be afforded on the subject of their pay; that there was reason to expect that a public declaration to this effect would soon be made; that plans had been agitated, if not formed, for subsisting themselves after such declaration; that, as a proof of their earnestness on this subject, the Commander was already become extremely unpopular, among almost all ranks, from his known dislike to every unlawful proceeding; that this unpopularity was daily increasing and industriously promoted by many leading characters; that

his choice of unfit and indiscreet persons into his family was the pretext, and with some the real motive; but the substantial one, a desire to displace him from the respect and confidence of the army, in order to substitute General * * * * * as the conductor of their efforts to obtain justice. Mr. HAMILTON said, that he knew General Washington intimately and perfectly; that his extreme reserve, mixed sometimes with a degree of asperity of temper, both of which were said to have increased of late, had contributed to the decline of his popularity; but that his virtue, his patriotism and firmness, would, it might be depended upon, never yield to any dishonorable or disloyal plans into which he might be called; that he would sooner suffer himself to be cut to pieces; that he, (Mr. HAMILTON,) knowing this to be his true character, wished him to be the conductor of the army in their plans for redress, in order that they might be moderated and directed to proper objects, and exclude some other leader who might foment and misguide their councils; that with this view he had taken the liberty to write to the General on this subject, and to recommend such a policy to him.]

FRIDAY, FEBRUARY 21ST.

Mr. MERCER made some remarks tending to a reconsideration of the act declaring general funds to be necessary, which revived the discussion of that subject.

Mr. MADISON said, that he had observed, throughout

the proceedings of Congress relative to the establishment of such funds, that the power delegated to Congress by the Confederation had been very differently construed by different members, and that this difference of construction had materially affected their reasonings and opinions on the several propositions which had been made; that, in particular, it had been represented by sundry members, that Congress was merely an executive body; and, therefore, that it was inconsistent with the principles of liberty and the spirit of the Constitution, to submit to them a permanent revenue, which would be placing the purse and the sword in the same hands; that he wished the true doctrine of the Confederation to be ascertained, as it might, perhaps, remove some embarrassments; and towards that end would offer his ideas on the subject.

He said, that he did not conceive, in the first place, that the opinion was sound, that the power of Congress, in cases of revenue, was in no respect legislative, but merely executive; and, in the second place, that, admitting the power to be executive, a permanent revenue collected and dispensed by them in the discharge of the debts to which it should be appropriated would be inconsistent with the nature of an executive body, or dangerous to the liberties of the Republic.

As to the first opinion, he observed, that, by the Articles of Confederation, Congress had clearly and expressly the right to fix the quantum of revenue necessary for the public exigencies, and to require the same from the States respectively, in proportion to the value of the land; that the requisitions thus

made were a law to the States, as much as the acts of the latter for complying with them were a law to their individual members; that the Federal Constitution was as sacred and obligatory as the internal Constitutions of the several States; and that nothing could justify the States in disobeying acts warranted by it, but some previous abuse and infraction on the part of Congress; that as a proof that the power of fixing the quantum, and making requisitions of money, was considered as a legislative power over the purse, he would appeal to the proposition made by the British Minister, of giving this power to the British Parliament, and leaving to the American Assemblies the privilege of complying in their own mode, and to the reasonings of Congress and the several States on that proposition. He observed, further, that by the Articles of Confederation was delegated to Congress a right to borrow money indefinitely, and emit bills of credit, which was a species of borrowing, for repayment and redemption of which the faith of the States was pledged, and their Legislatures constitutionally bound. He asked, whether these powers were reconcileable with the idea that Congress was a body merely executive. He asked, what would be thought in Great Britain, from whose Constitution our political reasonings were so much drawn, of an attempt to prove that a power of making requisitions of money on the Parliament, and of borrowing money, for discharge of which the Parliament should be bound, might be annexed to the Crown without changing its quality of an executive branch, and that the leaving to the Parliament the mode only of complying with the

requisitions of the Crown would be leaving to it its supreme and exclusive power of legislation.

As to the second point, he referred again to the British Constitution, and the mode in which provision was made for the public debts; observing, that although the Executive had no authority to contract a debt, yet, that when a debt had been authorized or admitted by the Parliament, a permanent and irrevocable revenue was granted by the Legislature, to be collected and dispensed by the Executive; and that this practice had never been deemed a subversion of the Constitution, or a dangerous association of a power over the purse with the power of the sword.

If these observations were just, as he conceived them to be, the establishment of a permanent revenue—not by any assumed authority of Congress, but by the authority of the States at the recommendation of Congress, to be collected and applied by the latter to the discharge of the public debts—could not be deemed inconsistent with the spirit of the Federal Constitution, or subversive of the principles of liberty; and that all objections drawn from such a supposition ought to be withdrawn. Whether other objections of sufficient weight might not lie against such an establishment, was another question. For his part, although for various reasons* he had

* Among other reasons, privately weighing with him, he had observed that many of the most respectable people of America supposed the preservation of the Confederacy essential to secure the blessings of the Revolution; and permanent funds for discharging debts essential to the preservation of union. A disappointment to this class would certainly abate their ardor, and, in a critical emergency, might incline them to prefer some political connection with Great Britain, as a necessary cure for our internal instability. Again, without permanent and general funds, he did not conceive that the danger of convulsions from the army could be effectually obviated. Lastly, he did not think that any

wished for such a plan as most eligible, he had never been sanguine that it was practicable; and the discussions which had taken place had finally satisfied, him that it would be necessary to limit the call for a general revenue to duties on commerce, and to call for the deficiency in the most permanent way that could be reconciled with a revenue established within each State, separately, and appropriated to the common Treasury. He said the rule which he had laid down to himself, in this business, was to concur in every arrangement that should appear necessary for an honorable and just fulfilment of the public engagements, and in no measure tending to augment the power of Congress which should appear to be unnecessary; and particularly disclaimed the idea of perpetuating a public debt.

Mr. LEE, in answer to Mr. MADISON, said the doctrine maintained by him was pregnant with dangerous consequences to the liberties of the Confederate States; that, notwithstanding the specious arguments that had been employed, it was an established truth, that the purse ought not to be put into the same hands with the sword; that like arguments had been used in favor of ship-money in the reign of Charles the First,

thing would be so likely to prevent disputes among the States, with the calamities consequent on them. The States were jealous of each other, each supposing itself to be, on the whole, a creditor to the others. The Eastern States, in particular, thought themselves so with regard to the Southern States. (See Mr. GORHAM, in the debates of this day.) If general funds were not introduced, it was not likely the balances would ever be discharged, even if they should be liquidated. The consequence would be a rupture of the Confederacy. The Eastern States would, at sea, be powerful and rapacious; the Southern, opulent and weak. This would be a temptation; the demands on the Southern States would be an occasion; reprisals would be instituted; foreign aid would be called in by, first, the weaker, then the stronger side; and, finally, both be made subservient to the wars and politics of Europe.

it being then represented as essential to the support of the Government; that the Executive should be assured of the means of fulfilling its engagements for the public service. He said it had been urged by several in behalf of such an establishment for public credit, that without it Congress was nothing more than a rope of sand. On this head he would be explicit; he had rather see Congress a rope of sand than a rod of iron. He urged, finally, as a reason why some States would not, and ought not, to concur in granting to Congress a permanent revenue, that some States, as Virginia, would receive back a small part by payment from the United States to its citizens; whilst others, as Pennsylvania, would receive a vast surplus, and, consequently, by draining the former of its wealth.

Mr. MERCER said, if he conceived the Federal compact to be such as it had been represented, he would immediately withdraw from Congress, and do every thing in his power to destroy its existence; that if Congress had a right to borrow money as they pleased, and to make requisitions on the States that would be binding on them, the liberties of the States were ideal; that requisitions ought to be consonant to the spirit of liberty; that they should go frequently, and accompanied with full information; that the States must be left to judge of the nature of them, of their abilities to comply with them, and to regulate their compliance accordingly; he laid great stress on the omission of Congress to transmit half-yearly to the States an account of the moneys borrowed by them, &c.; and even insinuated that this omission had absolved the States, in some degree,

from the engagements. He repeated his remarks on the injustice of the rule by which loan-office certificates had been settled, and his opinion that some defalcations would be necessary.

Mr. HOLTEN was opposed to all permanent funds, and to every arrangement not within the limits of the Confederation.

Mr. HAMILTON enlarged on the general utility of permanent funds to the federal interests of this country, and pointed out the difference between the nature of the Constitution of the British Executive and that of the United States, in answer to Mr. LEE's reasoning from the case of ship-money.

Mr. GORHAM adverted, with some warmth, to the doctrines advanced by Mr. LEE and Mr. MERCER, concerning the loan-office creditors. He said the Union could never be maintained on any other ground than that of justice; that some States had suffered greatly from the deficiencies of others already; that if justice was not to be obtained through the Federal system, and this system was to fail, as would necessarily follow, it was time this should be known, that some of the States might be forming other confederacies adequate to the purposes of their safety.

This debate was succeeded by a discharge of the Committee from the business of devising the means requisite for restoring public credit, &c., &c., and the business referred to a committee, consisting of Mr. GORHAM, Mr. HAMILTON, Mr. MADISON, Mr. FITZSIMMONS, and Mr. RUTLEDGE.

No Congress till

TUESDAY, FEBRUARY 25TH.

In favor of the motion of Mr. GILMAN, (see the Journal of this date,) to refer the officers of the army for their *half-pay* to their respective States, it was urged that this plan alone would secure to the officers any advantage from that engagement; since Congress had no independent fund out of which it could be fulfilled, and the States of Connecticut and Rhode Island, in particular, would not comply with any recommendation of Congress, nor even requisition, for that purpose. It was also said that it would be satisfactory to the officers; and that it would apportion on the States that part of the public burden with sufficient equality. Mr. DYER said, that the original promise of Congress on that subject was considered, by some of the States, as a fetch upon them, and not within the spirit of the authority delegated to Congress. Mr. WOLCOTT said the States would give Congress nothing whatever, unless they were gratified in this particular. Mr. COLLINS said Rhode Island had expressly instructed her Delegates to oppose every measure tending to an execution of the promise out of moneys under the disposition of Congress.

On the other side it was urged, that the half-pay was a debt as solemnly contracted as any other debt; and was, consequently, as binding under the twelfth Article of the Confederation on the States, and that they could not refuse a requisition made for that purpose; that it would be improper to countenance

a spirit of that sort by yielding to it; that such concessions on the part of Congress would produce compliances on the part of the States, in other instances, clogged with favorite conditions; that a reference of the officers to the particular States to whose lines they belong would not be satisfactory to the officers of those States who objected to half-pay, and would increase the present irritation of the army; that to do it without their unanimous consent would be a breach of the contract by which the United States, collectively, were bound to them; and, above all, that the proposed plan which discharged any particular State which should settle with its officers on this subject, although other States might reject the plan, from its proportion of that part of the public burden, was a direct and palpable departure from the law of the Confederation. According to this instrument, the whole public burden of debt must be apportioned according to a valuation of land; nor could any thing but a unanimous concurrence of the States dispense with this law. According to the plan proposed, so much of the public burden as the half-pay should amount to was to be apportioned according to the number of officers belonging to each line; the plan to take effect, as to all those States which should adopt it, without waiting for the unanimous adoption of the States; and that, if Congress had authority to make the number of officers the rule of apportioning one part of the public debt on the States, they might extend the rule to any other arbitrary rule which they should think fit. The motion of Mr. GILMAN was negatived. See the ayes and noes on the Journal.

WEDNESDAY, FEBRUARY 26TH.

Mr. LEE observed to Congress, that it appeared, from the newspapers of the day, that sundry enormities had been committed by the refugees within the State of Delaware, as it was known that like enormities had been committed on the shores of the Chesapeake, notwithstanding the pacific professions of the enemy; that it was probable, however, that if complaint were to be made to the British Commander at New York, the practice would be restrained. He accordingly moved that a committee might be appointed to take into consideration the means of restraining such practices. The motion was seconded by Mr. PETERS. By Mr. FITZSIMMONS the motion was viewed as tending to a request of favors from Sir Guy Carleton. It was apprehended by others, that, as General Washington and the commanders of separate armies had been explicitly informed of the sense of Congress on this point, any fresh measures thereon might appear to be a censure on them; and that Congress could not ground any measure on the case in question, having no official information relative to it. The motion of Mr. LEE was negatived; but it appearing, from the vote, to be the desire of many members that some step might be taken by Congress, the motion of Mr. MADISON and Mr. MERCER, as it stands on the Journal, was proposed and agreed to, as free from all objections.

A motion was made by Mr. HAMILTON to give a brevet commission to Major Burnet, aid to General

Greene, and messenger of the evacuation of Charleston, of Lieutenant-Colonel; there being six ayes only, the motion was lost; New Hampshire, no; Mr. LEE and Mr. MERCER, no.

The Committee, consisting of Mr. LEE, &c., to whom had been referred the motion of Mr. HAMILTON, recommending to the States to authorize Congress to make abatements in the retrospective apportionment, by a valuation of land in favor of States whose ability, from year to year, had been most impaired by the war, reported that it was inexpedient to agree to such motion, because one State (Virginia) having disagreed to such a measure on a former recommendation to Congress, it was not probable that another recommendation would produce any effect; and because the difficulties of making such abatements were greater than the advantages expected from them.

Mr. LEE argued in favor of the Report, and the reasons on which it was grounded. The Eastern Delegations were for leaving the matter open for future determination, when an apportionment should be in question.

Mr. MADISON said, he thought that the principle of the motion was conformable to justice, and within the spirit of the Confederation; according to which apportionments ought to have been made from time to time, throughout the war, according to the existing wealth of each State. But that it would be improper to take up this case separately from other claims of equity, which would be put in by other States; that the most likely mode of obtaining the concurrence of the States in any plan, would be to

comprehend in it the equitable interests of all of them; a comprehensive plan of that sort would be the only one that would cut off all sources of future controversy among the States. That as soon as the plan of revenue should be prepared for recommendation to the States, it would be proper for Congress to take into consideration, and combine with it, every object* which might facilitate its progress, and for a complete provision for the tranquillity of the United States. The question on Mr. HAMILTON's motion was postponed.

* He had in view the following objects: First, the abatements proposed by Mr. HAMILTON. Second, a transfer, into the common mass of expenses, of all the separate expenses incurred by the States in their particular defence. Third, an acquisition to the United States of the vacant territory. The plan thus extended would affect the interest of the States as follows, viz: New Hampshire would approve the establishment of a general revenue, as tending to support the Confederacy, to remove causes of future contention, and to secure her trade against separate taxation from the States through which it is carried on. She would also approve of a share in the vacant territory. Having never been much invaded by the enemy, her interest would be opposed to the abatements, and throwing all the separate expenditures into the common mass. The discharge of the public debts from the common treasury would not be required by her interest, the loans of her citizens being under her proportion. See the statement of them.

Massachusetts is deeply interested in the discharge of the public debts. The expedition to Penobscot alone interests her, she supposes, in making a common mass of expenses; her interest is opposed to abatements; the other would not peculiarly affect her.

Rhode Island, as a weak State, is interested in a general revenue, as tending to support the Confederacy, and prevent future contentions; but against it, as tending to deprive her of the advantage afforded by her situation of taxing the commerce of the contiguous States. As tending to discharge, with certainty, the public debts, her proportion of loans interest her rather against it. Having been the seat of war for a considerable time, she might not, perhaps, be opposed to abatements on that account. The exertions for her defence having been *previously* sanctioned, it is presumed, in most instances, she would be opposed to making a common mass of expenses. In the acquisition of vacant territory, she is deeply and anxiously interested.

Connecticut is interested in a general revenue, as tending to protect her commerce from separate taxation from New York and Rhode Island, and somewhat

The letter from Mr. Morris requesting that the injunction of secrecy might be withdrawn from his preceding letter, signifying to Congress his purpose of resigning, was committed.

as providing for loan-office creditors. Her interest is opposed to statements, and to a common mass of expenses. Since the condemnation of her title to her Western claims, she may, perhaps, consider herself as interested in the acquisition of the vacant lands. In other respects, she would not be peculiarly affected.

New York is exceedingly attached to a general revenue, as tending to support the Confederacy, and prevent future contests among the States. Although her citizens are not lenders beyond the proportion of the State, yet individuals of great weight are deeply interested in provision for public debts. In abatements, New York is also deeply interested. In making a common mass, also, interested; and since the acceptance of her cession, interested in those of other States.

New Jersey is interested, as a smaller State, in a general revenue, as tending to support the Confederacy, and to prevent future contests, and to guard her commerce against the separate taxation of Pennsylvania and New York. The loans of her citizens are not materially disproportionate. Although this State has been much the theatre of the war, she would not, perhaps, be interested in abatements. Having had a previous sanction for particular expenditures, her interest would be opposed to a common mass. In the vacant territory, she is deeply and anxiously interested.

Pennsylvania is deeply interested in a general revenue, the loans of her citizens amounting to more than one-third of that branch of the public debt. As far as a general impost on trade would restrain her from taxing the trade of New Jersey, it would be against her interest. She is interested against abatements, and against a common mass, her expenditures having been always previously sanctioned. In the vacant territory, she is also interested.

Delaware is interested, by her weakness, in a general revenue, as tending to support the Confederacy and future tranquillity of the States; but, materially, by the credits of her citizens. Her interest is opposed to abatements, and to a common mass. To the vacant territory, she is firmly attached.

Maryland having never been the seat of war, and her citizens being creditors below her proportion, her interest lies against a general revenue, otherwise than as she is interested, in common with others, in the support of the Confederacy and tranquillity of the United States; but against abatements, and against a common mass. The vacant lands are a favorite object to her.

Virginia, in common with the Southern States, as likely to enjoy an opulent and defenceless trade, is interested in a general revenue, as tending to secure to her the protection of the Confederacy against the maritime superiority of the Eastern States; but against it, as tending to discharge loan-office debts, and to deprive her of the occasion of taxing North Carolina. She is deeply interested in abatements, and essentially so in a common mass; not only her

THURSDAY, FEBRUARY 27TH.

On the Report of the Committee on Mr. Morris's letter, the injunction of secrecy was taken off without dissent or observation.

eccentric expenditures being enormous, but many of her necessary ones having received no previous or subsequent sanction. Her cession of territory would be considered as a sacrifice.

North Carolina is interested in a general revenue, as tending to ensure the protection of the Confederacy against the maritime superiority of the Eastern States, and to guard her trade from separate taxation by Virginia and South Carolina. The loans of her citizens are inconsiderable. In abatements, and in a common mass, she is essentially interested. In the article of territory, she would have to make a sacrifice.

South Carolina is interested, as a weak and exposed State, in a general revenue, as tending to secure to her the protection of the Confederacy against enemies of *every* kind; and, as providing for the public creditors, her citizens being not only loan-office creditors beyond her proportion, but having immense unliquidated demands against the United States. As restraining her power over the commerce of North Carolina, a general revenue is opposed to her interests. She is also materially interested in abatements, and in a common mass. In the article of territory, her sacrifice would be inconsiderable.

Georgia, as a feeble and opulent frontier State, is peculiarly interested in a general revenue, as tending to support the Confederacy. She is also interested in it somewhat by the creditors of her citizens. In abatements she is also interested, and in a common mass essentially so. In the article of territory, she would make an important sacrifice.

To make this plan still more complete, for the purpose of removing all present complaints, and all occasions of future contests, it may be proper to include in it a recommendation to the States to rescind the rule of apportioning pecuniary burdens according to the value of the land, and to substitute that of numbers, reckoning two slaves as equal to one freeman.

STATE OF THE LOAN-OFFICE DEBT.

| | Specie Dollars. | | Specie Dollars. |
|---------------------|-----------------|--------------------|-----------------|
| New Hampshire . . . | 336,579 58 7 | Delaware | 65,820 13 7 |
| Massachusetts . . . | 2,361,866 66 5 | Maryland | 410,218 30 0 |
| Rhode Island . . . | 699,725 37 4 | Virginia | 313,741 82 3 |
| Connecticut . . . | 1,270,115 30 0 | North Carolina . . | 113,341 11 1 |
| New York . . . | 919,729 57 5 | South Carolina . . | 90,442 10 1 |
| New Jersey . . . | 658,883 69 0 | Georgia. | |
| Pennsylvania . . . | 3,948,904 14 4 | | |

This, it is to be observed, is only the list of loan-office debts. The unliquidated debts, and liquidated debts of other denominations due to individuals,

The attention of Congress was recalled to the subject of half-pay by Messrs. DYER and WOLCOTT, in order to introduce a reconsideration of the mode of referring it separately to the States to provide for their own lines.

Mr. MERCER favored the reconsideration, representing the commutation proposed, as tending, in common with the funding of other debts, to establish and perpetuate a moneyed interest in the United States; that this moneyed interest would gain the ascendance of the landed interest; would resort to places of luxury and splendor, and, by their example and influence, become dangerous to our republican constitutions. He said, however, that the variances of opinion and indecision of Congress were alarming, and required that something should be done; that it would be better to new-model the Confederation, or attempt any thing, rather than to do nothing.

Mr. MADISON reminded Congress, that the commutation proposed was introduced as a compromise with those to whom the idea of pensions was obnoxious; and observed, that those whose scruples had been relieved by it had rendered it no less obnoxious than before, by stigmatizing it with the name of a perpetuity. He said the public situation was truly deplorable. If the payment of the capital of the public debts was suggested, it was said, and truly said, to be impossible; if funding them and paying the interest was proposed, it was exclaimed against

will vary inexpressibly the relative quantum of credits of the several States. It is to be further observed, that this only shows the original credits, transfers having been constant; heretofore they have flowed into Pennsylvania. Other States may hereafter have an influx.

as establishing a dangerous moneyed interest, as corrupting the public manners, as administering poison to our republican constitutions. He said, he wished the revenue to be established to be such as would extinguish the capital, as well as pay the interest, within the shortest possible period; and was as much opposed to perpetuating the public burdens as any one. But that the discharge of them in some form or other was essential, and that the consequences predicted therefrom could not be more heterogeneous to our republican character and constitutions, than a violation of the maxims of good faith and common honesty. It was agreed that the report for commuting half-pay should lie on the table till to-morrow, in order to give an opportunity to the Delegates of Connecticut to make any proposition relative thereto which they should judge proper.

The Report of the Committee, consisting of Mr. GORHAM, Mr. HAMILTON, Mr. MADISON, Mr. RUTLEDGE and Mr. FITZSIMMONS, was taken up. It was proposed, that, in addition to the impost of five per cent., *ad valorem*, the States be requested to enable Congress to collect a duty of one-eighth of a dollar per bushel on salt imported; of six-ninetieths per gallon on all wines, do.; and of three-ninetieths per gallon on all rum and brandy, do.

On the first article, it was observed, on the part of the Eastern States, that this would press peculiarly hard on them, on account of the salt consumed in the fisheries; and that it would, besides, be injurious to the national interest by adding to the cost of fish; and a drawback was suggested.

On the other side it was observed, that the warmer

climate, and more dispersed settlements of the Southern States, required a greater consumption of salt for their provisions; that salt might, and would be, conveyed to the fisheries without previous importation; that the effect of the duty was too inconsiderable to be felt in the cost of fish; and that the rum in the North-eastern States being, in a great degree, manufactured at home, they would have greater advantage, in this respect, than the other States could have in the article of salt; that a drawback could not be executed in our complicated government with ease or certainty.

Mr. MERCER, on this occasion, declared, that, although he thought those who opposed a general revenue right in their principles, yet, as they appeared to have formed no plan adequate to the public exigencies, and as he was convinced of the necessity of doing something, he should depart from his first resolution, and strike in with those who were pursuing the plan of a general revenue.

Mr. HOLTEN said, he had come lately into Congress with a predetermination against any measures for discharging the public engagements, other than those pointed out in the Confederation, and that he had hitherto acted accordingly. But that he saw now so clearly the necessity of making provision for that object, and the inadequacy of the Confederation thereto, that he should concur in recommending to the States a plan of a general revenue.

A question being proposed on the duties on salt, there were nine ayes: New Hampshire alone being no; Rhode Island not present.

It was urged, by some, that the duty on wine

should be augmented; but it appeared, on discussion, and some calculations, that the temptation to smuggling would be rendered too strong, and the revenue thereby diminished. Mr. BLAND proposed, that, instead of a duty on the gallon, an *ad-valorem* duty should be laid on wine; and this idea, after some loose discussion, was agreed to, few of the members interesting themselves therein, and some of them having previously retired from Congress.

FRIDAY, FEBRUARY 28TH.

A motion was made by Mr. WOLCOTT and Mr. DYER to refer the half-pay to the States, little differing from the late motion of Mr. GILMAN, except that it specified five years' whole pay as the proper ground of composition with the officers of the respective lines. On this proposition the arguments used for and against Mr. GILMAN's motion were recapitulated. It was negatived, Connecticut alone answering in the affirmative, and no division being called for.

On the question to agree to the Report for a commutation of five years' whole pay, there being seven ayes only, it was considered whether this was an appropriation, or a new ascertainment of a sum of money necessary for the public service. Some were of opinion, at first, that it did not fall under that description, viz: of an appropriation. Finally, the contrary opinion was deemed, almost unanimously, safest, as well as the most accurate. Another question was, whether seven or nine votes were to decide

doubts; whether seven or nine were requisite on any question. Some were of opinion that the Secretary ought to make an entry according to his own judgment, and that that entry should stand unless altered by a positive instruction from Congress. To this it was objected, that it would make the Secretary the sovereign in many cases, since a reversal of his entry would be impossible, whatever that entry might be; that, particularly, he might enter seven votes to be affirmative on a question where nine were necessary, and if supported in it by a few States it would be irrevocable. It was said, by others, that the safest rule would be to require nine votes to decide, in all cases of doubt, whether nine or seven were necessary. To this it was objected, that one or two States, and in any situation six States, might, by raising doubts, stop seven from acting in any case which they disapproved. Fortunately, on the case in question, there were nine States of opinion that nine were requisite; so the difficulty was got over for the present.

On a reconsideration of the question whether the duty on wine should be on the quantity or on the value, the mode reported by the Committee was reinstated, and the whole report recommitted, to be included with the five per cent., *ad valorem*, in an act of recommendation to the States.

MONDAY, MARCH 3RD.

The Committee on revenues reported, in addition to the former articles recommended by them, a duty

of two-thirds of a dollar per one hundred and twelve pounds, on all brown sugars; one dollar on all powdered, lumped, and clayed sugars, other than loaf sugars; one and one-third of a dollar per one hundred and twelve pounds, on all loaf sugars; one-thirtieth of a dollar per pound on all Bohea teas; and one-fifteenth of a dollar on all finer India teas. This report, without debate or opposition, was recommitted, to be incorporated with the general plan.

TUESDAY, MARCH 4TH, and WEDNESDAY, MARCH 5TH.

The motion of Mr. HAMILTON, on the Journal, relative to abatement of the quotas of distressed States, was rejected, partly because the principle was disapproved by some, and partly because it was thought improper to be separated from other objects to be recommended to the States. The latter motive produced the motion for postponing, which was lost.

The Committee to whom had been referred the letters of resignation of Mr. Morris reported, as their opinion, that it was not necessary for Congress, immediately, to take any steps thereon. They considered the resignation as conditional, and that, if it should eventually take place at the time designated, there was no necessity for immediate provision to be made.

Mr. BLAND moved "That a committee be appointed to devise the most proper means of arranging the Department of Finance."

This motion produced, on these two days, lengthy

and warm debates; Mr. LEE and Mr. BLAND, on one side, disparaging the administration of Mr. Morris, and throwing oblique censure on his character. They considered his letter as an insult to Congress, and Mr. LEE declared, that the man who had published to all the world such a picture of our national character and finances was unfit to be a Minister of the latter. On the other side, Mr. WILSON and Mr. HAMILTON went into a copious defence and panegyric of Mr. Morris; the ruin in which his resignation, if it should take place, would involve public credit, and all the operations dependent on it; and the decency, though firmness, of his letters. The former observed, that the declaration of Mr. Morris, that he would not be the minister of injustice, could not be meant to reflect on Congress, because they had declared the funds desired by Mr. Morris to be necessary; and that the friends of the latter could not wish for a more honorable occasion for his retreat from public life, if they did not prefer the public interest to considerations of friendship. Other members were divided as to the propriety of the letters in question. In general, however, they were thought reprehensible; as in general, also, a conviction prevailed of the personal merit and public importance of Mr. Morris. All impartial members foresaw the most alarming consequences from his resignation. The prevailing objection to Mr. BLAND's motion was, that its avowed object and tendency was to re-establish a *board*, in place of a single Minister of Finance. Those who apprehended that, ultimately, this might be unavoidable, thought it so objectionable that nothing but the last necessity could justify it. The motion of Mr.

BLAND was lost, and a committee appointed, generally, on the letters of Mr. Morris.⁵⁵

THURSDAY, MARCH 6TH.

The Committee on Revenue made a report, which was ordered to be printed for each member, and to be taken up on Monday next.

FRIDAY, MARCH 7TH.

Printed copies of the Report above-mentioned were delivered to each member, as follows, viz:

1. "*Resolved*, That it be recommended to the several States, as indispensably necessary to the restoration of public credit, and the punctual and honorable discharge of the public debts, to vest in the United States, in Congress assembled, a power to levy, for the use of the United States, a duty of five per cent., *ad valorem*, at the time and place of importation, upon all goods, wares and merchandizes of foreign growth and manufactures, which may be imported into any of the said States, from any foreign port, island or plantation, except arms, ammunition, clothing, and other articles imported on account of the United States, or any of them; and except wool cards, cotton cards, and wire for making them; and also except salt, during the war.

2. "Also, a like duty of five per cent., *ad valorem*,

on all prizes and prize goods condemned in the Court of Admiralty of these United States as lawful prize.

3. "Also, to levy a duty of one-eighth of a dollar per bushel on all salt, imported as aforesaid, after the war; one-fifteenth of a dollar per gallon on all wines; one-thirtieth of a dollar per gallon on all rum and brandy; two-thirds of a dollar per one hundred and twelve pounds on all brown sugars; one dollar per one hundred and twelve pounds on all powdered, lump and clayed sugars, other than loaf sugars; one and one-third of a dollar per one hundred and twelve pounds on all loaf sugars; one-thirtieth of a dollar per pound on all Bohea tea; and one-fifteenth of a dollar per pound on all finer India teas, imported as aforesaid, after ————, in addition to the five per cent. above-mentioned.

4. "Provided, that none of the said duties shall be applied to any other purpose than the discharge of the interest, or principal, of the debts which shall have been contracted on the faith of the United States, for supporting the present war, nor be continued for a longer term than twenty-five years: and provided, that the collectors of the said duties shall be appointed by the States within which their offices are to be respectively exercised, but when so appointed, shall be amenable to, and removable by, the United States, in Congress assembled, alone; and, in case any State shall not make such appointment within ————, after notice given for that purpose, the appointment may then be made by the United States, in Congress assembled.

5. "That it be further recommended to the several

States to establish for a like term, not exceeding twenty-five years, and to appropriate to the discharge of the interest and principal of the debts which shall have been contracted on the faith of the United States, for supporting the present war, substantial and effectual revenues, of such a nature as they may respectively judge most convenient, to the amount of ————, and in the proportion following, viz :

* * * * *

The said revenues to be collected by persons appointed as aforesaid, but to be carried to the separate credit of the States within which they shall be collected, and be liquidated and adjusted among the States according to the quotas which may from time to time be allotted to them.

6. "That an annual account of the proceeds and application of the aforementioned revenues shall be made out and transmitted to the several States, distinguishing the proceeds of each of the specified articles, and the amount of the whole revenue received from each State.

7. "That none of the preceding resolutions shall take effect until all of them shall be acceded to by every State; after which accession, however, they shall be considered as forming a mutual compact among all the States, and shall be irrevocable by any one or more of them without the concurrence of the whole, or a majority, of the United States in Congress assembled.

8. "That, as a further means, as well of hastening the extinguishment of the debts as of establishing the harmony of the United States, it be recommended to

the States which have passed no acts towards complying with the resolutions of Congress of the sixth of September, and the tenth of October, 1780, relative to territorial cessions, to make the liberal cessions therein recommended; and to the States which may have passed acts complying with the said resolutions in part only, to revise and complete such compliance.

9. "That, in order to remove all objections against a retrospective application of the constitutional rule of apportioning to the several States the charges and expenses which shall have been supplied for the common defence or general welfare, it be recommended to them to enable Congress to make such equitable exceptions and abatements as the particular circumstances of the States, from time to time, during the war, may be found to require.

10. "That, conformably to the liberal principles on which these recommendations are founded, and with a view to a more amicable and complete adjustment of all accounts between the United States and individual States, all reasonable expenses which shall have been incurred by the States without the sanction of Congress, in their defence against, or attacks upon, British or savage enemies, either by sea or by land, and which shall be supported by satisfactory proofs, shall be considered as part of the common charges incident to the present war, and be allowed as such.

11. "That, as a more convenient and certain rule of ascertaining the proportions to be supplied by the States, respectively, to the common treasury, the following alteration, in the Articles of Confederation

and perpetual union between these States, be, and the same is hereby, agreed to in Congress; and the several States are advised to authorize their respective Delegates to subscribe and ratify the same, as part of the said instrument of union, in the words following, to wit:

“ ‘ So much of the eighth of the Articles of Confederation and perpetual union between the thirteen States of America as is contained in the words following, to wit: “ All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State granted to, or surveyed for, any person, as such land, and the buildings and improvements thereon, shall be estimated according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint,”—is hereby revoked and made void, and in place thereof it is declared and concluded, the same having been agreed to in a Congress of the United States, that all charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the number of inhabitants, of every age, sex, and condition, except Indians, not paying taxes in each State; which number shall be triennially taken and transmitted to the United States, in Congress assembled, in such mode as they shall

direct and appoint; provided, always, that in such numeration no persons shall be included who are bound to servitude for life, according to the laws of the State to which they belong, other than such as may be between the ages of* ——— years.’ ”

MONDAY, MARCH 10TH.

The Committee, consisting of Mr. CARROLL, Mr. DYER, and Mr. MIFFLIN, to whom was referred the Report of the Committee on two paragraphs of a report of the Grand Committee, brought in a report; and the Report of the Committee being taken into consideration, and amended, so as to read as follows: “That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the sum of five years’ full pay, in money or securities, on interest at six per cent. per annum, at the option of Congress, instead of the half-pay promised for life, by the resolution of the twenty-first of October, 1780; the said securities to be such as shall be given to the other creditors of the United States; provided that it be at the option of the lines of the respective States, and not of officers individually in those lines, to accept or refuse the same; that all officers who have retired from service upon

* In the draft, as laid before the Committee by ———, the tenth paragraph, the word “reasonable” before the word “expenses” was not inserted; but to the paragraph was added, “provided that this allowance shall not be extended to any expenses which shall be declared, by nine votes in Congress, to be manifestly unreasonable.” In other respects the original draft was unaltered, except that a former resolution of Congress, in the words of the ninth paragraph, was incorporated by the secretary before it went to the press.

the promise of half-pay for life, shall be entitled to the benefits of the above resolution; provided that those of the line of each State, collectively, shall agree thereto; that the same commutation shall extend to the corps not belonging to the lines of particular States, the acceptance or refusal to be determined by corps; that all officers entitled to half-pay for life, not included in the above resolution, may, collectively, agree to accept or refuse the commutation."

Much debate passed relative to the proposed commutation of half-pay; some wishing it to take place on condition only that a majority of the whole army should concur; others preferring the plan above expressed, and not agreed to.

TUESDAY, MARCH 11TH.

The Report entered on Friday, the seventh of March, was taken into consideration. It had been sent, by order of Congress, to the Superintendent of Finance for his remarks, which were also on the table. These remarks were, in substance: that it would be better to turn the five per cent., *ad valorem*, into a tariff, founded on an enumeration of the several classes of imports, to which ought to be added a few articles of exports; that, instead of an apportionment of the residue on the States, other general revenues—from a land tax, reduced to one-fourth of a dollar per hundred acres, with a house tax, regulated by the numbers of windows, and an

excise on all spirituous liquors, to be collected at the place of distillery—ought to be substituted, and, as well as the duties on trade, made co-existent with the public debts; the whole to be collected by persons appointed by Congress alone. And that an alternative ought to be held out to the States, either to establish the permanent revenues for the interest, or to comply with a constitutional demand of the principal within a very short period.

In order to ascertain the sense of Congress on these ideas, it was proposed that the following short questions should be taken:

1. Shall any taxes, to operate generally throughout the States, be recommended by Congress, other than duties on foreign commerce?

2. Shall the five per cent., *ad valorem*, be exchanged for a tariff?

3. Shall the alternative be adopted, as proposed by the Superintendent of Finance?

On the first question the States were, New Hampshire, no; Connecticut, no; New Jersey, no; Maryland, no; Virginia, no; six noes and five ayes—lost.

On the second question there were seven ayes.

The third question was not put, its impropriety being generally proclaimed.

In consequence of the second vote in favor of a tariff, the three first paragraphs of the Report were recommitted, together with the letter from the Superintendent of Finance.

On the fourth paragraph, on motion of Mr. DYER, after the word "war," in the fifth line, was inserted "agreeably to the resolution of the sixteenth of December last."

A motion was made by Mr. HAMILTON and Mr. WILSON to strike out the limitation of twenty-five years, and to make the revenue co-existent with the debts. This question was lost, the States being New Hampshire, no; Massachusetts, no; Connecticut, divided; New York, aye; New Jersey, aye; Pennsylvania, aye; Delaware, aye; Maryland, aye; Virginia, no; North Carolina, aye; South Carolina, no.

A motion was made by Mr. HAMILTON and Mr. WILSON to strike out the clauses relative to the appointment of collectors, and to provide that the collectors should be inhabitants of the States within which they should collect; should be nominated by Congress, and appointed by the States; and in case such nomination should not be accepted or rejected within — days, it should stand good. On this question there were five ayes and six noes.

WEDNESDAY, 12TH, THURSDAY, 13TH, FRIDAY,
14TH, and SATURDAY, 15TH of MARCH.

These days were employed in reading the despatches brought on Wednesday morning by Captain Barney, commanding the Washington packet. They were dated from December the fourth to the twenty-fourth, from the Ministers Plenipotentiary for peace, with journals of preceding transactions; and were accompanied by the preliminary articles signed on the thirtieth of November, between the said Ministers and Mr. Oswald, the British Minister.

The terms granted to America appeared to Congress, on the whole, extremely liberal. It was observed by several, however, that the stipulation obliging Congress to recommend to the States a restitution of confiscated property, although it could scarcely be understood that the States would comply, had the appearance of sacrificing the dignity of Congress to the pride of the British King.

The separate and secret manner in which our Ministers had proceeded with respect to France, and the confidential manner with respect to the British Ministers, affected different members of Congress differently. Many of the most judicious members thought they had all been, in some measure, ensnared by the dexterity of the British Minister; and particularly disapproved of the conduct of Mr. Jay, in submitting to the enemy his jealousy of the French, without even the knowledge of Dr. Franklin, and of the unguarded manner in which he, Mr. Adams, and Dr. Franklin, had given, in writing, sentiments unfriendly to our Ally, and serving as weapons for the insidious policy of the enemy. The separate article was most offensive, being considered as obtained by Great Britain, not for the sake of the territory ceded to her, but as a means of disuniting the United States and France, as inconsistent with the spirit of the alliance, and a dishonorable departure from the candor, rectitude and plain dealing professed by Congress. The dilemma in which Congress were placed was sorely felt. If they should communicate to the French Minister every thing, they exposed their own Ministers, destroyed all confidence in them on the part of France, and

might engage them in dangerous factions against Congress, which was the more to be apprehended, as the terms obtained by their management were popular in their nature. If Congress should conceal every thing, and the French Court should, either from the enemy or otherwise, come to the knowledge of it, all confidence would be at an end between the allies; the enemy might be encouraged by it to make fresh experiments, and the public safety as well as the national honor be endangered. Upon the whole, it was thought and observed by many that our Ministers, particularly Mr. Jay, instead of making allowances for, and affording facilities to France, in her delicate situation between Spain and the United States, had joined with the enemy in taking advantage of it to increase her perplexity; and that they had made the safety of their country depend on the sincerity of Lord Shelburne, which was suspected by all the world besides, and even by most of themselves. See Mr. Laurens's letter, December the twenty-fourth.

The displeasure of the French Court, at the neglect of our Ministers to maintain a confidential intercourse, and particularly to communicate the preliminary articles before they were signed, was not only signified to the Secretary of Foreign Affairs, but to sundry members by the Chevalier de la Luzerne. To the former he showed a letter from Count de Vergennes, directing him to remonstrate to Congress against the conduct of the American Ministers, which a subsequent letter countermanded, alleging that Dr. Franklin had given some explanations that had been admitted; and told Mr. Livings-

ton that the American Ministers had deceived him (De Vergennes) by telling him, a few days before the preliminary articles were signed, that the agreement on them was at a distance; that when he carried the articles signed into Council, the King expressed great indignation, and asked, if the Americans served him thus before peace was made, and whilst they were begging for aids, what was to be expected after peace, &c. To several members he mentioned that the King had been surprised and displeased, and that he said he did not think he had such allies to deal with. To one of them, who asked whether the Court of France meant to complain of them to Congress, M. Marbois answered that great powers never *complained*, but that they *felt* and *remembered*. It did not appear, from any circumstances, that the separate article was known to the Court of France, or to the Chevalier de la Luzerne.

The publication of the preliminary articles, excepting the separate article in the newspaper, was not a deliberate act of Congress. A hasty question for enjoining secrecy on certain parts of the despatches, which included those articles, was lost; and copies having been taken by members, and some of them handed to the Delegates of Pennsylvania, one of them reached the printer. When the publication appeared, Congress in general regretted it, not only as tending too much to lull the States, but as leading France into suspicions that Congress favored the premature signature of the articles, and were, at least, willing to remove, in the minds of the people, the blame of delaying peace from Great Britain to France.⁵⁶

MONDAY, MARCH 17TH.

A letter was received from General Washington, enclosing two anonymous and inflammatory exhortations to the army to assemble, for the purpose of seeking, by other means, that justice which their country showed no disposition to afford them. The steps taken by the General to avert the gathering storm, and his professions of inflexible adherence to his duty to Congress and to his country, excited the most affectionate sentiments towards him. By private letters from the army, and other circumstances, there appeared good ground for suspecting that the civil creditors were intriguing, in order to inflame the army into such desperation as would produce a general provision for the public debts. These papers were committed to Mr. GILMAN, Mr. DYER, Mr. CLARK, Mr. RUTLEDGE and Mr. MERCER. The appointment of these gentlemen was brought about by a few members, who wished to saddle with this embarrassment the men who had opposed the measures necessary for satisfying the army, viz: the half-pay and permanent funds; against one or other of which the individuals in question had voted.

This alarming intelligence from the army, added to the critical situation to which our affairs in Europe were reduced by the variance of our Ministers with our Ally, and to the difficulty of establishing the means of fulfilling the engagements and securing the harmony of the United States, and to the confusions apprehended from the approaching resignation of the Superintendent of Finance, gave

peculiar awe and solemnity to the present moment, and oppressed the minds of Congress with an anxiety and distress which had been scarcely felt in any period of the Revolution.

TUESDAY, MARCH 18TH.

On the Report of the Committee to whom the three paragraphs of the Report on revenues (see March the sixth and seventh) had been recommended, the said paragraphs were expunged, so as to admit the following amendments, which took place without opposition, viz:

“Resolved, That it be recommended to the several States, as indispensably necessary to the restoration of public credit, and the punctual and honorable discharge of the public debts, to vest in the United States, in Congress assembled, a power to levy, for the use of the United States, a duty,

Upon all rum of Jamaica

proof, per gallon, of . . . 4 ninetieths of a dollar.

Upon all other spirituous

liquors, ... 3 do. do.

Upon Madeira wine, . . . 12 do. do.

Upon the wines of Lisbon,

Oporto, those called

Sherry, and upon all

French wines, ... 6 do. do.

Upon the wines called

Malaga or Teneriffe, . . . 5 do. do.

| | | | |
|------------------------------|---------------|-------------------------|-----|
| Upon all other wines, . . . | 4 | ninetieths of a dollar. | |
| Upon common Bohea tea, | | | |
| per lb. | 6 | do. | do. |
| Upon all other teas, . . . | 24 | do. | do. |
| Upon pepper, per lb. . . . | 3 | do. | do. |
| Upon brown sugar, per lb. . | $\frac{1}{2}$ | do. | do. |
| Upon loaf sugar, ... | 2 | do. | do. |
| Upon all other sugars, . . . | 1 | do. | do. |
| Upon molasses, per gallon, | 1 | do. | do. |
| Upon cocoa and coffee, | | | |
| per lb. | 1 | do. | do. |
| Upon salt, after the war, | | | |
| per bushel, ... | 1 | eighth | do. |

And upon all goods, except arms, ammunition and clothing, or other articles,* imported for the use of the United States, a duty of five per cent., *ad valorem*:

Provided, that there be allowed a bounty of one-eighth of a dollar for every quintal of dried fish exported from the United States, and a like sum for every barrel of pickled fish, beef or pork, to be paid or allowed to the exporter thereof, at the port from which they shall be so exported.

The arguments urged by Mr. WILSON in behalf of his motion, for adding "also a tax of one quarter of a dollar per hundred acres on all located and surveyed lands within each of the States," other than those heretofore generally urged, were, that it was more moderate than had been paid before the Revo-

* The other exception, as to the cards, and the wire for making them, &c., was struck out unanimously, on the motion of Mr. CLARK; being considered as no longer necessary, and contrary to the general policy of encouraging necessary manufactures among ourselves.

lution, and it could not be supposed the people would grudge to pay, as the price of their liberty, what they formerly paid to their oppressors; that if it was unequal, this inequality would be corrected by the States in other taxes; that, as the tax on trade would fall chiefly on the inhabitants of the lower country, who consumed the imports, the tax on land would affect those who were remote from the sea, and consumed little.

On the opposite side it was alleged, that such a tax was repugnant to the popular ideas of equality, and, particularly, would never be acceded to by the Southern States, at least, unless they were to be respectively credited for the amount; and, if such credit were to be given, it would be best to let the States choose such taxes as would best suit them.

A letter came in, and was read, from the Secretary of Foreign Affairs, stating the perplexing alternative to which Congress were reduced by the secret article relating to West Florida, either of dishonoring themselves, by becoming a party to the concealment, or of wounding the feelings and destroying the influence of our Ministers by disclosing the article to the French Court, and proposing, as advisable, on the whole—

1. That he be authorized to communicate the article in question to the French Minister, in such manner as would best tend to remove the unfavorable impressions which might be made on the Court of France as to the sincerity of Congress or their Ministers.

2. That the said Ministers be informed of this communication, and instructed to agree that the limit for

West Florida, proposed in the separate article, be allowed to whatever power the said colony may be confirmed by a treaty of peace.

3. That it be declared to be the sense of Congress, that the preliminary articles between the United States and Great Britain are not to take effect until peace shall be actually signed between the Kings of France and Great Britain.*

Ordered that to-morrow be assigned for the consideration of the said letter.

WEDNESDAY, MARCH 19TH.

A letter was read from the Superintendent of Finance, enclosing letters from Dr. Franklin, accompanied with extracts from the Count de Vergennes relative to money affairs, the Superintendent thereupon declaring roundly that our credit was at an end, and that no further pecuniary aids were to be expected from Europe. Mr. RUTLEDGE denied these assertions, and expressed some indignation at them. Mr. BLAND said, that as the Superintendent was of this opinion it would be absurd for him to be Minister of Finance, and moved that the Committee on his motion for arranging the Department might be instructed to report without loss of time. This motion was negatived as censuring the Committee; but it was understood to be the sense of Congress that they should report.⁵⁷

* This was meant to guard against a construction that they were to take effect when peace should be agreed on by those powers, and the latter be *ready* to sign, although the former should be restrained until the other parties should be ready for signing.

The order of the day, viz: the letter from the Secretary of Foreign Affairs, was taken up.

Mr. WOLCOTT conceived it unnecessary to waste time on the subject, as he presumed Congress would never so far censure the Ministers who had obtained such terms for this country as to disavow their conduct.

Mr. CLARK was decided against communicating the separate article, which would be sacrificing meritorious Ministers, and would rather injure than relieve our national honor. He admitted that the separate article put an advantage into the hands of the enemy, but did not, on the whole, deem it of any great consequence. He thought Congress ought to go no further than to inform the Ministers that they were sorry for the necessity which had led them into the part they had taken, and to leave them to get rid of the embarrassment as to the separate article, in such way as they should judge best. This expedient would save Congress, and spare our Ministers, who might have been governed by reasons not known to Congress.

Mr. MERCER said, that, not meaning to give offence any where, he should speak his sentiments freely. He gave it as his clear and decided opinion, that the Ministers had insulted Congress by sending them assertions, without proof, as reasons for violating their instructions, and throwing themselves into the confidence of Great Britain. He observed that France, in order to make herself equal to the enemy, had been obliged to call for aid, and had drawn Spain, against her interest, into the war; that it was probable that she had entered into some specific

engagements for that purpose; that hence might be deduced the perplexity of her situation, of which advantage had been taken by Great Britain—an advantage in which our Ministers had concurred—for sowing jealousies between France and the United States, and of which further advantage would be taken to alienate the minds of the people of this country from their Ally, by presenting him as the obstacle to peace. The British Court, he said, having gained this point, may easily frustrate the negotiation, and renew the war against divided enemies. He approved of the conduct of the Count de Vergennes in promoting a treaty, under the first commission to Oswald, as preferring the substance to the shadow, and proceeding from a desire of peace. The conduct of our Ministers throughout, particularly in giving in writing every thing called for by the British Minister expressive of distrust of France, was a mixture of follies which had no example, was a tragedy to America, and a comedy to all the world beside. He felt inexpressible indignation at their meanly stooping, as it were, to lick the dust from the feet of a nation whose hands were still dyed with the blood of their fellow-citizens. He reprobated the chicane and low cunning which marked the Journals transmitted to Congress, and contrasted them with the honesty and good faith which became all nations, and particularly an infant republic. They proved that America had at once all the follies of youth and all the vices of old age; thinks it would be necessary to recall our Ministers; fears that France may be already acquainted with all the transactions of our Ministers, even with the separate

article, and may be only waiting the reception given to it by Congress, to see how far the hopes of cutting off the right arm of Great Britain, by supporting our Revolution, may have been well founded; and, in case of our basely disappointing her, may league with our enemy for our destruction, and for a division of the spoils. He was aware of the risks to which such a league would expose France, of finally losing her share, but supposed that the British Islands might be made hostages for her security. He said America was too prone to depreciate political merit, and to suspect where there was no danger; that the honor of the King of France was dear to him; that he never would betray or injure us, unless he should be provoked, and justified by treachery on our part. For the present he acquiesced in the proposition of the Secretary of Foreign Affairs; but, when the question should come to be put, he should be for a much more decisive resolution.

Mr. RUTLEDGE said, he hoped the character of our Ministers would not be affected, much less their recall produced, by declamations against them; and that facts would be ascertained and stated, before any decision should be passed; that the Count de Vergennes had expressly declared to our Ministers his desire that they might treat apart; alluded to, and animadverted upon, the instruction which submitted them to French councils; was of opinion that the separate article did not concern France, and therefore there was no necessity for communicating it to her; and that, as to Spain, she deserved nothing at our hands; she had treated us in a manner that forfeited all claim to our good offices or our confidence.

She had not, as had been supposed, entered into the present war, as an ally to our ally, for our support; but, as she herself had declared, as a principal, and on her own account. He said, he was for adhering religiously to the spirit and letter of the treaty with France; that our Ministers had done so, and, if recalled or censured for the part they had acted, he was sure no man of spirit would take their place. He concluded with moving that the letter from the Secretary of Foreign Affairs might be referred to a special committee, who might inquire into all the facts relative to the subject of it. Mr. HOLTEN seconded the motion.

Mr. WILLIAMSON was opposed to harsh treatment of the Ministers, who had shown great ability. He said they had not infringed the treaty, and, as they had received the concurrence of the Count de Vergennes for treating apart, they had not, in that respect, violated their instructions. He proposed that Congress should express to the Ministers their concern at the separate article, and leave them to get over the embarrassment as they should find best.

Mr. MERCER, in answer to Mr. RUTLEDGE, said that his language with respect to the Ministers was justified by their refusal to obey instructions; censured with great warmth the servile confidence of Mr. Jay, in particular, in the British Ministers. He said, the separate article was a reproach to our character; and that, if Congress would not themselves disclose it, he would disclose it to his constituents, who would disdain to be united with those who patronize such dishonorable proceedings. He was called to order by the President, who said that the

article in question was under an injunction of secrecy, and he could not permit the order of the House to be trampled upon.

Mr. LEE took notice that obligations in national affairs, as well as others, ought to be reciprocal, and he did not know that France had ever bound herself to like engagements, as to concert of negotiation, with those into which America had at different times been drawn. He thought it highly improper to censure Ministers who had negotiated well; said that it was agreeable to practice, and necessary to the end proposed, for Ministers in particular emergencies to swerve from strict instructions. France, he said, wanted to sacrifice our interests to her own, or those of Spain; that the French answer to the British memorial contained a passage which deserved attention on this subject. She answered the reproaches of perfidy contained in that memorial, by observing that, obligations being reciprocal, a breach on one side absolved the other. The Count de Vergennes, he was sure, was too much a master of negotiation not to approve the management of our Ministers, instead of condemning it. No man lamented more than he did any diminution of the confidence between this country and France; but if the misfortune should ensue, it could not be denied that it had originated with France, who has endeavoured to sacrifice our territorial rights—those very rights which by the treaty she had guarantied to us. He wished the preliminary articles had not been signed without the knowledge of France, but was persuaded, that, in whatever light she might view it,

she was too sensible of the necessity of our independence to her safety ever to abandon it. But let no censure fall on our Ministers, who had, upon the whole, done what was best. He introduced the instruction of the fifteenth of June, 1781; proclaimed it to be the greatest opprobrium and stain to this country which it had ever exposed itself to; and that it was, in his judgment, the true cause of that distrust and coldness which prevailed between our Ministers and the French Court, inasmuch as it could not be viewed by the former without irritation and disgust. He was not surprised that those who considered France as the patron, rather than the ally, of this country, should be disposed to be obsequious to her; but he was not of that number.

Mr. HAMILTON urged the propriety of proceeding with coolness and circumspection. He thought it proper, in order to form a right judgment of the conduct of our Ministers, that the views of the French and British Courts should be examined. He admitted it as not improbable, that it had been the policy of France to procrastinate the definite acknowledgment of our independence on the part of Great Britain, in order to keep us more knit to herself, and until her own interests could be negotiated. The arguments, however, urged by our Ministers on this subject, although strong, were not conclusive; as it was not certain that this policy, and not a desire of excluding obstacles to peace, had produced the opposition of the French Court to our demands. Caution and vigilance, he thought, were justified by the appearance, and that alone. But compare this policy with that of Great Britain;

survey the past cruelty and present duplicity of her councils; behold her watching every occasion, and trying every project, for dissolving the honorable ties which bind the United States to their Ally; and then say on which side our resentments and jealousies ought to lie. With respect to the instructions submitting our Ministers to the advice of France, he had disapproved it uniformly since it had come to his knowledge, but he had always judged it improper to repeal it. He disapproved highly of the conduct of our Ministers in not showing the preliminary articles to our Ally before they signed them, and still more so of their agreeing to the separate article. This conduct gave an advantage to the enemy, which they would not fail to improve for the purpose of inspiring France with indignation and distrust of the United States. He did not apprehend (with Mr. MERCER) any danger of a coalition between France and Great Britain against America, but foresaw the destruction of mutual confidence between France and the United States, which would be likely to ensue, and the danger which would result from it, in case the war should be continued. He observed, that Spain was an unwise nation; her policy narrow and jealous; her King old; her Court divided, and the heir-apparent notoriously attached to Great Britain. From these circumstances he inferred an apprehension, that when Spain should come to know the part taken by America, with respect to her, a separate treaty of peace might be resorted to. He thought a middle course best, with respect to our Ministers; that they ought to be commended in general; but that the communication of the sepa-

rate article ought to take place. He observed, that our Ministers were divided as to the policy of the Court of France, but that they all were agreed in the necessity of being on the watch against Great Britain. He apprehended, that if the Ministers were to be recalled or reprehended, that they would be disgusted, and head and foment parties in this country. He observed, particularly with respect to Mr. Jay, that, although he was a man of profound sagacity and pure integrity, yet he was of a suspicious temper, and that this trait might explain the extraordinary jealousies which he professed. He finally proposed, that the Ministers should be commended, and the separate article communicated. This motion was seconded by Mr. Osgood, as compared, however, with the proposition of the Secretary for Foreign Affairs, and so far only as to be referred to a committee.

Mr. PETERS favored a moderate course, as most advisable. He thought it necessary that the separate article should be communicated, but that it would be less painful to the feelings of the Ministers, if the doing it was left to themselves; and was also in favor of giving the territory, annexed by the separate article to West Florida, to such power as might be vested with that Colony in the treaty of peace.

Mr. BLAND said, he was glad that every one seemed, at length, to be struck with the impropriety of the instruction submitting our Ministers to the advice of the French Court. He represented it as the cause of all our difficulties, and moved that it might be referred to the Committee, with the several proposi-

tions which had been made. Mr. LEE seconded the motion.

Mr. WILSON objected to Mr. BLAND's motion, as not being in order. When moved in order, perhaps, he might not oppose the substance of it. He said, he had never seen nor heard of the instruction it referred to until this morning, and that it had really astonished him; that this country ought to maintain an upright posture between all nations. But, however objectionable this step might have been in Congress, the magnanimity of our Ally in declining to obtrude his advice on our Ministers ought to have been a fresh motive to their confidence and respect. Although they deserved commendation in general for their services, in this respect they do not. He was of opinion, that the spirit of the treaty with France forbade the signing of the preliminary articles without her consent, and that the separate article ought to be disclosed; but as the merits of our Ministers entitled them to the mildest and most delicate mode in which it could be done, he wished the communication to be left to themselves, as they would be the best judges of the explanation which ought to be made for the concealment; and their feelings would be less wounded than if it were made without their intervention. He observed, that the separate article was not important in itself, and became so only by the mysterious silence in which it was wrapt up. A candid and open declaration from our Ministers of the circumstances under which they acted, and the necessity produced by them of pursuing the course marked out by the interest of their country, would have been satisfactory to our Ally—

would have saved their own honor—and would not have endangered the objects for which they were negotiating.

Mr. HIGGINSON contended, that the facts stated by our Ministers justified the part they had taken.

Mr. MADISON expressed his surprise at the attempts made to fix the blame of all our embarrassments on the instruction of June the fifteenth, 1781, when it appeared that no use had been made of the power given by it to the Court of France; that our Ministers had construed it in such a way as to leave them at full liberty; and that no one in Congress pretended to blame them on that account. For himself, he was persuaded that their construction was just; the advice of France having been made a guide to them only in cases where the question respected the concessions of the United States to Great Britain necessary and proper for obtaining peace and an acknowledgment of independence; not where it respected concessions to other powers, and for other purposes. He reminded Congress of the change which had taken place in our affairs since that instruction was passed; and remarked the probability that many who were now, perhaps, the loudest in disclaiming, would, under the circumstances of that period, have been the foremost to adopt it.* He admitted, that the change of circumstances had rendered it inapplicable, but thought an express repeal of it might, at this crisis, at least, have a bad effect. The instructions, he observed, for dis-

* The Committee who reported the instruction were, Mr. CARROLL, Mr. JONES, Mr. WITHERSPOON, Mr. SULLIVAN and Mr. MATTHEWS. Mr. WITHERSPOON was particularly prominent throughout.

regarding which our Ministers had been blamed, and which, if obeyed, would have prevented the dilemma now felt, were those which required them to act in concert and in confidence with our Ally; and these instructions, he said, had been repeatedly confirmed in every stage of the Revolution, by unanimous votes of Congress; several of the gentlemen present,* who now justified our Ministers, having concurred in them, and one of them† having penned two of the acts, in one of which Congress went further than they had done in any preceding act; by declaring that they would not make peace until the interests of our allies and friends, as well as of the United States, should be provided for.

As to the propriety of communicating to our Ally the separate article, he thought it resulted clearly from considerations both of national honor and national security. He said, that Congress, having repeatedly assured their Ally that they would take no step in a negotiation but in concert and in confidence with him, and having even published to the world solemn declarations to the same effect, would, if they abetted this concealment of their Ministers, be considered by all nations as devoid of all constancy and good faith; unless a breach of these assurances and declarations could be justified by an absolute necessity, or some perfidy on the part of France; that it was manifest no such necessity could be pleaded; and as to perfidy on the part of France, nothing but

* MESSRS. BLAND, LEE and RUTLEDGE.

† Mr. RUTLEDGE, who framed, in the Committee, the first draft of the declaration made in September last, and the instruction about the same time. This was considerably altered, but not in that respect.

suspicious and equivocal circumstances had been quoted in evidence of it,—and even in these it appeared that our Ministers were divided; that the embarrassment in which France was placed by the interfering claims of Spain with the United States must have been foreseen by our Ministers, and that the impartial public would expect that, instead of co-operating with Great Britain in taking advantage of this embarrassment, they ought to have made every allowance and given every facility to it, consistent with a regard to the rights of their constituents; that, admitting every fact alleged by our Ministers to be true, it could by no means be inferred that the opposition made by France to our claims was the effect of any hostile or ambitious designs against them, or of any other design than that of reconciling them with those of Spain; that the hostile aspect which the separate article, as well as the concealment of it, bore to Spain, would be regarded by the impartial world as a dishonorable alliance with our enemies against the interests of our friends; but notwithstanding the disappointments and even indignities which the United States had received from Spain, it could neither be denied nor concealed that the former had derived many substantial advantages from her taking part in the war, and had even obtained some pecuniary aids; that the United States had made professions corresponding with those obligations; that they had testified the important light in which they considered the support resulting to their cause from the arms of Spain by the importunity with which they had courted her alliance, by the concessions with which they had

offered to purchase it, and by the anxiety which they expressed at every appearance of her separate negotiations for a peace with the common enemy.

That our national safety would be endangered by Congress making themselves a party to the concealment of the separate article, he thought could be questioned by no one. No definitive treaty of peace, he observed, had as yet taken place; the important articles between some of the belligerent parties had not even been adjusted; our insidious enemy was evidently laboring to sow dissensions among them; the incaution of our Ministers had but too much facilitated them between the United States and France; a renewal of the war, therefore, in some form or other, was still to be apprehended; and what would be our situation if France and Spain had no confidence in us,—and what confidence could they have, if we did not disclaim the policy which had been followed by our Ministers?

He took notice of the intimation given by the British Minister to Mr. Adams, of an intended expedition from New York against West Florida, as a proof of the illicit confidence into which our Ministers had been drawn, and urged the indispensable duty of Congress to communicate it to those concerned in it. He hoped that if a committee should be appointed—for which, however, he saw no necessity—that this would be included in their report, and that their report would be made with as little delay as possible.

In the event, the letter from the Secretary of Foreign Affairs, with all the despatches, and the

several propositions which had been made, were committed to Mr. WILSON, Mr. GORHAM, Mr. RUTLEDGE, Mr. CLARK, and Mr. HAMILTON.

THURSDAY, MARCH 20TH.

An instruction from the Legislature of Virginia to their Delegates, against admitting into the Treaty of Peace any stipulation for restoring confiscated property, was laid before Congress.

Also resolutions of the Executive Council of Pennsylvania, requesting the Delegates of that State to endeavour to obtain at least a reasonable term for making the payment of British debts stipulated in the preliminary articles lately received.

These papers were committed to Mr. OSGOOD, Mr. MERCER, and Mr. FITZSIMMONS.

Mr. DYER, whose vote on the tenth day of March frustrated the commutation of the half-pay, made a proposition substantially the same, which was committed. This seemed to be extorted from him by the critical state of our affairs, himself personally, and his State, being opposed to it.

The motion of Mr. HAMILTON, on the Journals, was meant as a testimony on his part of the insufficiency of the Report of the Committee as to the establishment of revenues, and as a final trial of the sense of Congress with respect to the practicability and necessity of a *general* revenue equal to the public wants. The debates on it were chiefly a repetition of those used on former questions relative to that subject.

Mr. FITZSIMMONS, on this occasion, declared that, on mature reflection, he was convinced that a *complete* general revenue was unattainable from the States, was impracticable in the hands of Congress, and that the modified provision reported by the Committee, if established by the States, would restore public credit among ourselves. He apprehended, however, that no *limited* funds would procure loans abroad, which would require funds commensurate to their duration.

Mr. HIGGINSON described all attempts of Congress to provide for the public debts out of the mode prescribed by the Confederation as nugatory; that the States would disregard them; that the impost of five per cent. had passed in Massachusetts by two voices only in the lower, and one in the upper, house; and that the Governor had never formally assented to the law; that it was probable this law would be repealed, and almost certain that the extensive plans of Congress would be reprobated.

FRIDAY, MARCH 21ST.

The Report on revenue was taken into consideration, and the fifth and sixth paragraphs, after discussion, being judged not sufficiently explicit, were recommitted to be made more so.

A motion was made by Mr. CLARK, seconded by Mr. BLAND, to complete so much of the Report as related to an impost on trade, and send it to the States immediately, apart from the residue.

In support of this motion it was urged that the impost was distinct in its nature, was more likely to be adopted, and ought not, therefore, to be delayed or hazarded by a connection with the other parts of the Report. On the other side it was contended, that it was the duty of Congress to provide a system adequate to the public exigencies; and that such a system would be more likely to be adopted by the States than any partial or detached provision, as it would comprise objects agreeable, as well as disagreeable, to each of the States, and as all of them would feel a greater readiness to make mutual concessions, and to disregard local considerations, in proportion to the magnitude of the object held out to them.

The motion was disagreed to, New Jersey being in favor of it, and several other States divided.

SATURDAY, MARCH 22ND.

A letter was received from General Washington, enclosing his address to the convention of officers, with the result of their consultations. The dissipation of the cloud which seemed to have been gathering afforded great pleasure, on the whole, to Congress; but it was observable that the part which the General had found it necessary, and thought it his duty, to take, would give birth to events much more serious, if they should not be obviated by the establishment of such funds as the General, as well as the army, had declared to be necessary.⁵⁸

The Report of the Committee on Mr. DYER's motion, in favor of a commutation for the half-pay, was agreed to. The preamble was objected to, but admitted at the entreaty of Mr. DYER, who supposed the considerations recited in it would tend to reconcile the State of Connecticut to the measure.

An order passed for granting thirty-five licenses for vessels belonging to Nantucket, to secure the whaling vessels against the penalty for double papers. This order was, in consequence of a deputation to Congress representing the exposed situation of that Island, the importance of the whale fishery to the United States, the danger of its being usurped by other nations, and the concurrence of the enemy in neutralizing such a number of vessels as would carry on the fisheries to an extent necessary for the support of the inhabitants.

The Committee, to whom was referred the letter from the Secretary of Foreign Affairs, with the foreign despatches, &c., reported—

1. That our Ministers be thanked for their zeal and services in negotiating the preliminary articles.

2. That they be instructed to make a communication of the separate article to the Court of France, in such way as would best get over the concealment.

3. That the Secretary of Foreign Affairs inform them that it is the wish of Congress that preliminary articles had been communicated to the Court of France before they had been executed.

Mr. DYER said he was opposed to the whole report; that he fully approved of every step taken by our Ministers, as well towards Great Britain as towards France; that the separate article did not

concern the interests of France, and therefore could not involve the good faith of the United States.

Mr. LEE agreed fully with Mr. DYER; said that the special report of facts ought to have been made necessary for enabling Congress to form a just opinion of the conduct of the Ministers; and moved, that the report might be recommitted. Mr. WOLCOTT seconded the motion, which was evidently made for the sole purpose of delay. It was opposed by Mr. CLARK, Mr. WILSON and Mr. GORHAM, the first and last of whom had, however, no objection to postponing; by Mr. MERCER, who repeated his abhorrence of the confidence shown by our Ministers to those of Great Britain; said, that it was about to realize the case of those who kicked down the ladder by which they had been elevated, and of the viper which was ready to destroy the family of the man in whose bosom it had been restored to life. He observed, that it was unwise to prefer Great Britain to Spain as our neighbours in West Florida.

Mr. HIGGINSON supported the sentiments of Mr. LEE; said that the Count de Vergennes had released our Ministers; and that he agreed with those who thought the instruction of June the fifteenth could relate only to questions directly between Great Britain and the United States.

Mr. HOLTEN thought there was no sufficient evidence for praise or blame; and that both ought to be suspended until the true reasons should be stated by the Ministers. He supposed that the separate article had been made an *ultimatum* of the preliminaries of Great Britain; and that there might also be secret articles between Great Britain and France.

If the latter were displeased, he conceived that she would officially notify it. Mr. RUTLEDGE was against recommitting, but for postponing. The motion for recommitting was disagreed to; but several States being for postponing, the vote was no index as to the main question.

It had been talked of, among sundry members, as very singular that the British Minister should have confided to Mr. Adams an intended expedition from New York against West Florida; as very reprehensible in the latter to become the depository of secrets hostile to the friends of his country, and that every motive of honor and prudence made it the duty of Congress to impart the matter to the Spaniards. To this effect, a motion was made by Mr. MERCER, seconded by Mr. MADISON. But it being near the usual hour of adjournment, the House being agitated by the debates on the separate article, and a large proportion of members predetermined against every measure which seemed in any manner to blame the Ministers, and the Eastern Delegates, in general, extremely jealous of the honor of Mr. Adams, an adjournment was pressed and carried without any vote on the motion.

MONDAY, MARCH 24TH.

On the day preceding this, intelligence arrived, which was this day laid before Congress, that the preliminaries for a general peace had been signed on the twentieth of January. This intelligence

was brought, by a French cutter, from Cadiz, despatched by Count d'Estaing to notify the event to all vessels at sea, and engaged, by the zeal of the Marquis de la Fayette, to convey it to Congress. This confirmation of peace produced the greater joy, as the preceding delay, the cautions of Mr. Laurens's letter of the twenty-fourth of December, and the general suspicions of Lord Shelburne's sincerity, had rendered an immediate and general peace extremely problematical in the minds of many.⁵⁹

A letter was received from General Carleton through General Washington, enclosing a copy of the preliminary articles between Great Britain and the United States, with the separate article annexed.

Mr. CARROLL, after taking notice of the embarrassment under which Congress was placed by the injunction of secrecy, as to the separate article, after it had probably been disclosed in Europe, and, it now appeared, was known at New York, called the attention of Congress again to that subject.

Mr. WOLCOTT still contended, that it would be premature to take any step relative to it, until further communications should be received from our Ministers.

Mr. GILMAN, being of the same opinion, moved that the business be postponed. Mr. LEE seconded the motion.

Mr. WILSON conceived it indispensably necessary that something should be done; that Congress deceived themselves if they supposed that the separate

article was any secret at New York after it had been announced to them from Sir Guy Carleton. He professed a high respect for the character of the Ministers, which had received fresh honor from the remarkable steadiness and great abilities displayed in the negotiations, but that their conduct with respect to the separate article could not be justified. He did not consider it as any violation of the instruction of June the fifteenth, 1781, the Count de Vergennes having happily released them from the obligation of it. But he considered it, with the signing of the preliminaries secretly, as a violation of the spirit of the Treaty of Alliance, as well as of the unanimous professions to the Court of France, unanimous instructions to our Ministers, and unanimous declarations to the world, that nothing should be discussed towards peace but in confidence, and in concert with our Ally. He made great allowance for the Ministers; saw how they were affected, and the reasons of it; but could not subscribe to the opinion that Congress ought to pass over the separate article in the manner that had been urged; Congress ought, he said, to disapprove of it, in the softest terms that could be devised, and, at all events, not to take part in its concealment.

Mr. BLAND treated the separate article with levity and ridicule, as in no respect concerning France, but Spain, with whom we had nothing to do.

Mr. CARROLL thought that, unless something expressive of our disapprobation of the article, and of its concealment, was done, that it would be an indelible stain on our character.

Mr. CLARK contended that it was still improper to

take any step, either for communicating officially, or for taking off the injunction of secrecy; that the article concerned Spain, and not France; but that if it should be communicated to the latter, she would hold herself bound to communicate it to the former; that hence an embarrassment might ensue; that it was, probably, this consideration which led the Ministers to the concealment, and he thought they had acted right. He described the awkwardness attending a communication of it under present circumstances; remarking, finally, that nothing had been done contrary to the treaty, and that we were in possession of sufficient materials* to justify the suspicions which had been manifested.

Mr. RUTLEDGE was strenuous for postponing the subject; said that Congress had no occasion to meddle with it; that the Ministers had done right; that they had maintained the honor of the United States after Congress had given it up; that the manœuvre practised by them was common in all courts, and was justifiable against Spain, who alone was affected by it; that instructions ought to be disregarded whenever the public good required it; and that he himself would never be bound by them when he thought them improper.

Mr. MERCER combatted the dangerous tendency of the doctrine maintained by Mr. RUTLEDGE with regard to instructions; and observed, that the Delegates of Virginia having been unanimously instructed not to conclude or discuss any treaty of peace but in confidence, and in concert with His Most Christian Majesty, he conceived himself as much bound, as he

* Alluding, probably, to the intercepted letter from M. de Marbois.

was, of himself, inclined to disapprove every other mode of proceeding; and that he should call for the yeas and nays on the question for his justification to his constituents.

Mr. BLAND tartly said that he, of course, was instructed as well as his colleague, and should himself require the yeas and nays to justify an opposite conduct; that the instructions from his constituents went no further than to prohibit any *treaty* without the concurrence of our Ally;* which prohibition had not been violated in the case before Congress.

Mr. LEE was for postponing and burying in oblivion the whole transaction; he said that delicacy to France required this; since, if any thing should be done implying censure on our Ministers, it must, and ought to be done in such a way as to fall ultimately on France, whose unfaithful conduct had produced and justified that of our Ministers. In all national intercourse, he said, a reciprocity was to be understood; and, as France had not communicated her views and proceedings to the American Plenipotentiaries, the latter were not bound to communicate theirs. All instructions he conceived to be conditional in favor of the public good; and he cited the case mentioned by Sir William Temple, in which the Dutch Ministers concluded, of themselves, an act which required the previous sanction of all the members of the Republic.

Mr. HAMILTON said, that, whilst he despised the man who would enslave himself to the policy even of our friends, he could not but lament the overweening readiness which appeared in many to suspect every

* This construction of the instructions was palpably wrong.

thing on that side, and to throw themselves into the bosom of our enemies. He urged the necessity of vindicating our public honor by renouncing that concealment to which it was the wish of so many to make us parties.

Mr. WILSON, in answer to Mr. LEE, observed that the case mentioned by Sir William Temple was utterly inapplicable to the case in question; adding that the conduct of France had not, on the principle of reciprocity, justified our Ministers in signing the provisional preliminaries without her knowledge, no such step having been taken on her part. But whilst he found it to be his duty thus to note the faults of these gentlemen, he, with much greater pleasure, gave them praise for their firmness in refusing to treat with the British negotiator until he had produced a proper commission, in contending for the fisheries, and in adhering to our Western claims.

Congress adjourned without any question.

TUESDAY, MARCH 25TH.

No Congress.

WEDNESDAY, MARCH 26TH.

Communication was made, through the Secretary of Foreign Affairs, by the Minister of France, as to the late negotiation, from letters received by him from the Count de Vergennes, dated in December last, and brought by the packet Washington. This

communication showed, though delicately, that France was displeased with our Ministers for signing the preliminary articles separately; that she had labored by recommending mutual concessions to compromise disputes between Spain and the United States, and that she was apprehensive that Great Britain would hereafter, as they already had endeavored to, sow discords between them. It signified that the "intimacy between our Ministers and those of Great Britain" furnished a handle for this purpose.

Besides the public communication to Congress, other parts of letters from the Count de Vergennes were privately communicated to the President of Congress and to sundry members, expressing more particularly the dissatisfaction of the Court of France at the conduct of our Ministers; and urging the necessity of establishing permanent revenues for paying our debts, and supporting a national character. The substance of these private communications, as taken on the twenty-third instant by the President, is as follows;

FINANCE.

"That the Count de Vergennes was alarmed at the extravagant demands of Dr. Franklin in behalf of the United States; that he was surprised, at the same time, that the inhabitants paid so little attention to doing something for themselves. If they could not be brought to give adequate funds for their defence during a dangerous war, it was not likely that so desirable an end could be accomplished

when their fears were allayed by a general peace; that this reasoning affected the credit of the United States, and no one could be found who would risk their money under such circumstances; that the King would be glad to know what funds were provided for the security and payment of the ten millions borrowed by him in Holland; that the Count de Vergennes hardly dared to report in favor of the United States to the King and council, as money was so scarce that it would be with the greatest difficulty that even a small part of the requisition could be complied with. The causes of this scarcity were a five years' war, which had increased the expenses of Government to an enormous amount—the exportation of large sums of specie to America for the support and pay of both French and English armies—the loans to America—the stoppage of bullion in South America, which prevented its flowing in the usual channels.”*

A letter of a later date added: “That he had received the Chevalier's letter of October, and rejoiced to find that Congress had provided funds for their debts, which gave him great encouragement, and he had prevailed on the Comptroller General to join him in a report to His Majesty and Council for six millions of livres for the United States to support the war, but assures the Chevalier de la Luzerne that he must never again consent to a further application.”

* Another cause mentioned was the large balance of specie in favor of the Northern powers during the war.

NEGOTIATIONS.

“He complains of being treated with great indelicacy by the American Commissioners, they having signed the treaty without any confidential communication; that had France treated America with the same indelicacy, she might have signed the treaty first, as every thing between France and England was settled, but the King chose to keep faith with his Allies, and, therefore, always refused to do any thing definitively, till all his allies were ready; that this conduct had delayed the definitive treaty, England having considered herself as greatly strengthened by America; that Dr. Franklin waited on the Count de Vergennes, and acknowledged the indelicacy of their behaviour, and had prevailed on him to bury it in oblivion; that the English were endeavouring all in their power to sow seeds of discord between our Commissioners and the Court of Spain, representing our claims to the westward as extravagant and inadmissible; that it became Congress to be attentive to this business, and to prevent the ill effects that it might be attended with; that the King had informed the Court of Spain, that he heartily wished that the United States might enjoy a cordial coalition with His Catholic Majesty, yet he should leave the whole affair entirely to the two States, and not interfere otherwise than as by his counsel and advice, when asked; that, although the United States had not been so well treated by Spain as might have been expected, yet that His

Majesty wished that America might reap the advantage of a beneficial treaty with Spain. That as the peace was not yet certain, it became all the powers at war to be ready for a vigorous campaign, and hoped Congress would exert themselves to aid the common cause by some offensive operations against the enemy; but if the British should evacuate the United States, the King earnestly hoped Congress would take the most decided measures to prevent any intercourse with the British, and particularly in the way of merchandize or supplying them with provisions, which would prove of the most dangerous tendency to the campaign in the West Indies; that the British now had hopes of opening an extensive trade with America, though the war should continue, which, if they should be disappointed in, might hasten the definitive treaty, as it would raise a clamor among the people of England.”⁶⁰

The Chevalier added, “that as he had misinformed his Court with regard to Congress having funded their debts, on which presumption the six millions had been granted, he hoped Congress would enable him in his next despatches to give some satisfactory account to his Court on this head.”

THURSDAY, MARCH 27TH.*

Revenues taken up as reported March 7th.

The fifth paragraph in the report on revenue having been judged not sufficiently explicit, and recommitted to be made more so, the following

* This day not noted in the Journal, as in some other instances.

paragraph was received in its place, viz: "That it be further recommended to the several States, to establish, for a term limited to twenty-five years, and to appropriate," &c., (to the word two millions of dollars annually,) which proportions shall be fixed and equalized, from time to time, according to such rule as is, or may be, prescribed by the Articles of Confederation; and in case the revenues so established and appropriated by any State shall at any time yield a sum exceeding its proportion, the excess shall be refunded to it; and in case the same shall be found to be defective, the immediate deficiency shall be made good as soon as possible, and a future deficiency guarded against by an enlargement of the revenues established; provided that until the rule of the Confederation can be applied, the proportions of the two millions of dollars aforesaid shall be as follows, viz:

This amendment was accepted; a motion of Mr. CLARK to restrain this apportionment, in the first instance, to the term of two years, being first negatived. He contended that a valuation of land would probably never take place, and that it was uncertain whether the rule of numbers would be substituted, and, therefore, that the first apportionment might be continued throughout the twenty-five years, although it must be founded on the present relative wealth of the States, which would vary every year in favor of those which are the least populous.

This reasoning was not denied, but it was thought that such a limitation might leave an interval in which no apportionment would exist, whence con-

fusion would proceed, and that an apprehension of it would destroy public credit.

A motion was made by Mr. BLAND, seconded by Mr. LEE, to go back to the first part of the report, and instead of the word "*levy*" an impost of five per cent., to substitute the word "collect" an impost, &c. It was urged in favor of this motion, that the first word imported a legislative idea, and the latter an executive only, and consequently the latter might be less obnoxious to the States. On the other side it was said, that the States would be governed more by things than by terms; that if the meaning of both was the same, an alteration was unnecessary; that if not, as seemed to be the case, an alteration would be improper. It was particularly apprehended, that if the term "collect" were to be used, the States might themselves fix the *mode* of collection; whereas it was indispensable that Congress should have that power, as well as that it might be varied from time to time, as circumstances or experience should dictate, as that a uniformity might be observed throughout the States. On the motion of Mr. CLARK, the negative was voted by a large majority, there being four ayes only.

On the eighth paragraph there was no argument or opposition.

The ninth paragraph being considered by several as inaccurate in point of phraseology, a motion was made by Mr. MADISON to postpone it, to take into consideration the following, to wit: "That in order to remove all objections against a retrospective application of the constitutional rule to the final apportionment on the several States, of the moneys and

supplies actually contributed in pursuance of requisitions of Congress, it be recommended to the States to enable the United States, in Congress assembled, to make such equitable abatements and alterations as the particular circumstances of the States, from time to time during the war, may require, and as will divide the burden among them in proportion to their respective abilities at the periods at which they were made." On a question of striking out, the original paragraph was agreed to without opposition. On the question to insert the amendment of Mr. MADISON, the votes of the States were, five ayes, six noes, viz: New Hampshire, Connecticut, New Jersey, Delaware, Maryland, no; the rest aye.⁶¹

On the tenth paragraph, relative to expenses incurred by the States without the sanction of Congress, Mr. CLARK exclaimed against the unreasonableness of burdening the Union with all the extravagant expenditures of particular States; and moved that it might be struck out of the report. Mr. HELMSLEY seconded the motion.

Mr. MADISON said, that the effects of rejecting this paragraph would be so extensive, that a full consideration of it ought at least to precede such a step; that the expenses referred to in the paragraph were, in part, such as would have been previously sanctioned by Congress, if application had been made; since similar ones had been so with respect to States within the vicinity of Congress, and, therefore, complaints of injustice would follow a refusal; that another part of the expenses had been incurred in support of claims to the territory of which cessions were asked by Congress, and, therefore, these could

not be expected, if the expenses incident to them should be rejected; that it was probable, if no previous assurance were given on this point, it would be made a condition by the States ceding, as the cessions of territory would be made a condition by the States most anxious to obtain them; that by these means the whole plan would be either defeated, or the part thereof in question be ultimately forced on Congress, whilst they might with a good grace yield it in the first instance; not to mention that these unliquidated and unallowed claims would produce, hereafter, such contests and heats among the States as would probably destroy the plan, even if it should be acceded to by the States without this paragraph.

Mr. DYER was in favor of the paragraph.

Mr. RUTLEDGE opposed it as letting in a flood of claims which were founded on extravagant projects of the States.

Mr. HIGGINSON and Mr. GORHAM were earnest in favor of it, remarking that the distance of Massachusetts from Congress had denied a previous sanction to the militia operations against General Burgoyne, &c. The Penobscot expedition, also, had great weight with them.

Mr. WILLIAMSON was in favor of it.

Mr. WILSON said, he had always considered this country, with respect to the war, as forming one community; and that the States which, by their remoteness from Congress, had been obliged to incur expenses for their defence without previous sanction, ought to be placed on the same footing with those which had obtained this security; but he could not agree to put them on a better, which would be

the case if their expenses should be sanctioned in the lump; he proposed, therefore, that these expenses should be limited to such as had been incurred in a *necessary defence*, and of which the object in each case should be approved by Congress.

Mr. MADISON agreed that the expressions in the paragraph were very loose, and that it would be proper to make them as definite as the case would admit; he supposed, however, that all operations against the enemy, within the limits assigned to the United States, might be considered as defensive, and in that view, the expedition against Penobscot might be so called. He observed that the term *necessary* left a discretion in the judge, as well as the term *reasonable*; and that it would be best, perhaps, for Congress to determine and declare that they would constitute a tribunal of impartial persons to decide, on oath, as to the propriety of claims of States not authorized heretofore by Congress. He said this would be a better security to the States, and would be more satisfactory than the decisions of Congress, the members of which did not act on oath, and brought with them the spirit of advocates for their respective States, rather than of impartial judges between them. He moved that the clause with Mr. WILSON'S proposition be recommitted, which was agreed to without opposition.

(Eleventh and twelfth paragraphs.) Mr. BLAND, in opposition, said that the value of land was the best rule, and that, at any rate, no change should be attempted until its practicability should be tried.

Mr. MADISON thought the value of land could never be justly or satisfactorily obtained; that it

would ever be a source of contentions among the States; and that, as a repetition of the valuation would be within the course of the twenty-five years, it would, unless exchanged for a more simple rule, mar the whole plan.

Mr. GORHAM was in favor of the paragraphs. He represented, in strong terms, the inequality and clamors produced by valuations of land in the State of Massachusetts, and the probability of the evils being increased among the States themselves, which were less tied together, and more likely to be jealous of each other.

Mr. WILLIAMSON was in favor of the paragraphs.

Mr. WILSON was strenuous in their favor; said he was in Congress when the Articles of Confederation directing a valuation of land were agreed to; that it was the effect of the impossibility of compromising the different ideas of the Eastern and Southern States, as to the value of slaves compared with the whites, the alternative in question.

Mr. CLARK was in favor of them. He said that he was also in Congress when this article was decided; that the Southern States would have agreed to numbers in preference to the value of land, if half their slaves only should be included; but that the Eastern States would not concur in that proposition.

It was agreed, on all sides, that, instead of fixing the proportion by ages, as the report proposed, it would be best to fix the proportion in absolute numbers. With this view, and that the blank might be filled up, the clause was recommitted.

FRIDAY, MARCH 28TH.

The Committee last mentioned, reported that two blacks be rated as one freeman.

Mr. WOLCOTT was for rating them as four to three.

Mr. CARROLL as four to one.

Mr. WILLIAMSON said he was principled against slavery; and that he thought slaves an incumbrance to society, instead of increasing its ability to pay taxes.

Mr. HIGGINSON as four to three.

Mr. RUTLEDGE said, for the sake of the object, he would agree to rate slaves as two to one, but he sincerely thought three to one would be a juster proportion.

Mr. HOLTEN as four to three.

Mr. OSGOOD said he did not go beyond four to three.

On a question for rating them as three to two, the votes were, New Hampshire, aye; Massachusetts, no; Rhode Island, divided; Connecticut, aye; New Jersey, aye; Pennsylvania, aye; Delaware, aye; Maryland, no; Virginia, no; North Carolina, no; South Carolina, no.

The paragraph was then postponed, by general consent, some wishing for further time to deliberate on it; but it appearing to be the general opinion that no compromise would be agreed to.

After some further discussions on the Report, in which the necessity of some simple and practicable rule of apportionment came fully into view, Mr. MADISON said that, in order to give a proof of the sincerity

of his professions of liberality, he would propose that slaves should be rated as five to three. Mr. RUTLEDGE seconded the motion. Mr. WILSON said he would sacrifice his opinion on this compromise.

Mr. LEE was against changing the rule, but gave it as his opinion that two slaves were not equal to one freeman.

On the question for five to three, it passed in the affirmative; New Hampshire, aye; Massachusetts, divided; Rhode Island, no; Connecticut, no; New Jersey, aye; Pennsylvania, aye; Maryland, aye; Virginia, aye; North Carolina, aye; South Carolina, aye.

A motion was then made by Mr. BLAND, seconded by Mr. LEE, to strike out the clause so amended, and, on the question "shall it stand," it passed in the negative; New Hampshire, aye; Massachusetts, no; Rhode Island, no; Connecticut, no; New Jersey, aye; Pennsylvania, aye; Delaware, no; Maryland, aye; Virginia, aye; North Carolina, aye; South Carolina, no; so the clause was struck out.

The arguments used by those who were for rating slaves high were, that the expense of feeding and clothing them was as far below that incident to freemen as their industry and ingenuity were below those of freemen; and that the warm climate within which the States having slaves lay, compared with the rigorous climate and inferior fertility of the others, ought to have great weight in the case; and that the exports of the former States were greater than of the latter. On the other side, it was said, that slaves were not put to labor as young as the children of laboring families; that, having no inte-

rest in their labor, they did as little as possible, and omitted every exertion of thought requisite to facilitate and expedite it; that if the exports of the States having slaves exceeded those of the others, their imports were in proportion, slaves being employed wholly in agriculture, not in manufactures; and that, in fact, the balance of trade formerly was much more against the Southern States than the others.

On the main question, New Hampshire, aye; Massachusetts, no; Rhode Island, no; Connecticut, no; New York (Mr. FLOYD, aye;) New Jersey, aye; Delaware, no; Maryland, aye; Virginia, aye; North Carolina, aye; South Carolina, no.

SATURDAY, MARCH 29TH.

The objections urged against the motion of Mr. LEE, on the Journal, calling for a specific report of the Superintendent of Finance as to moneys passing through his hands, were, that the information demanded from the Office of Finance had, during a great part of the period, been laid before Congress, and was then actually on the table; that the term *application* of money was too indefinite, no two friends of the motion agreeing in the meaning of it; and that if it meant no more than immediate payments, under the warrants of the Superintendent, to those who were to expend the money, it was unnecessary, the Superintendent being already impressed with his duty on that subject; that if it meant the ultimate payment for articles or services for the public, it imposed a task that would be impracticable to

the Superintendent, and useless to Congress, who could no otherwise examine them than through the department of accounts, and the committees appointed half-yearly for inquiring into the whole proceedings; and that, if the motion were free from those objections, it ought to be so varied as to oblige the Office of Finance to report the information periodically; since it would otherwise depend on the memory or vigilance of members, and would, moreover, have the aspect of suspicion towards the officer called upon.

N. B. As the motion was made at first, the word "immediately" was used; which was changed for the words "as soon as may be," at the instance of Mr. HOLTEN.

The object of the motion of Mr. MADISON was to define and comprehend every information practicable and necessary for Congress to know, and to enable them to judge of the fidelity of their Minister, and to make it a permanent part of his duty to afford it. The clause respecting copies of receipts was found, on discussion, not to accord with the mode of conducting business, and to be too voluminous a task; but the question was taken without a convenient opportunity of correcting it. The motion was negatived.⁶²

MONDAY, MARCH 31ST.

A letter was received from the Governor of Rhode Island, with resolutions of the Legislature of that State, justifying the conduct of Mr. HOWELL.⁶³

On the arrival of the French cutter with the account of the signing of the general preliminaries, it was thought fit by Congress to hasten the effect of them by calling in the American cruisers. It was also thought, by all, not amiss to notify simply the intelligence to the British commanders at New York. In addition to this, it was proposed by the Secretary of Foreign Affairs, and urged by the Delegates of Pennsylvania, by Mr. LEE, Mr. RUTLEDGE and others, that Congress should signify their desire and expectation that hostilities should be suspended at sea on the part of the enemy. The arguments urged were, that the effusion of blood might be immediately stopped, and the trade of the country rescued from depredation. It was observed, on the other side, that such a proposition derogated from the dignity of Congress; showed an undue precipitancy; that the intelligence was not authentic enough to justify the British commanders in complying with such an overture; and, therefore, that Congress would be exposed to the mortification of a refusal. The former consideration prevailed, and a verbal sanction was given to Mr. Livingston's expressing to the said commanders the expectation of Congress. This day their answers were received, addressed to Robert R. Livingston, Esquire, &c., &c., &c., declining to accede to the stopping of hostilities at sea, and urging the necessity of authentic orders from Great Britain for that purpose. With their letters, Mr. Livingston communicated resolutions proposed from his office, "that, in consequence of these letters, the orders to the American cruisers should be revoked; and that the

Executives should be requested to embargo all vessels." Congress were generally sensible, after the receipt of these papers, that they had committed themselves in proposing to the British commanders, at New York, a stop to naval hostilities, and were exceedingly at a loss to extricate themselves. On one side, they were unwilling to publish to the world the affront they had received, especially as no written order had been given for the correspondence; and, on the other, it was necessary that the continuance of hostilities at sea should be made known to American citizens. Some were in favor of the revocation of hostilities; others proposed, as Colonel BLAND, and General MIFFLIN, that the Secretary of Foreign Affairs should be directed, verbally, to publish the letters from Carleton and Digby. This was negatived. The superscription was animadverted upon, particularly by Mr. MERCER, who said, that the letters ought to have been sent back unopened. Finally, it was agreed that any member might take copies and send them to the press, and that the subject should lie over for further consideration.⁶⁴

TUESDAY, APRIL 1ST.

Mr. GORHAM called for the order of the day, to wit, the Report on revenue, &c., and observed, as a cogent reason for hastening that business, that the Eastern States, at the invitation of the Legislature of Massachusetts, were, with New York, about to

form a convention for regulating matters of common concern, and that if any plan should be sent out by Congress during their session, they would probably co-operate with Congress in giving effect to it.

Mr. MERCER expressed great disquietude at this information; considered it as a dangerous precedent; and that it behoved the gentleman to explain fully the objects of the convention, as it would be necessary for the Southern States to be, otherwise, very circumspect in agreeing to any plans, on a supposition that the general confederacy was to continue.

Mr. OSGOOD said, that the sole object was to guard against an interference of taxes among States, whose local situation required such precautions; and that if nothing was definitively concluded without the previous communication to, and sanction of, Congress, the Confederation could not be said to be in any manner departed from; but that, in fact, nothing was intended that could be drawn within the purview of the Federal Articles.

Mr. BLAND said he had always considered those conventions as improper, and contravening the spirit of the Federal Government. He said they had the appearance of young Congresses.

Mr. GORHAM explains as Mr. OSGOOD.

Mr. MADISON and Mr. HAMILTON disapproved of these partial conventions, not as absolute violations of the Confederacy, but as ultimately leading to them, and, in the mean time, exciting pernicious jealousies; the latter observing, that he wished instead of them to see a general convention take place, and that he should soon, in pursuance of instructions from his constituents, propose to Congress a plan for that

purpose; the object would be to strengthen the Federal Constitution.

Mr. WHITE informed Congress that New Hampshire had declined to accede to the plan of a convention on foot.

Mr. HIGGINSON said that no gentleman need be alarmed at any rate, for it was pretty certain that the convention would not take place. He wished, with Mr. HAMILTON, to see a general convention for the purpose of revising and amending the Federal Government.⁶⁵

These observations having put an end to the subject, Congress resumed the Report on Revenue, &c. Mr. HAMILTON, who had been absent when the last question was taken for substituting numbers in place of the value of land, moved to reconsider that vote. He was seconded by Mr. OSGOOD. (See the Journal.) Those who voted differently from their former votes were influenced by the conviction of the necessity of the change, and despair on both sides of a more favorable rate of the slaves. The rate of three-fifths was agreed to without opposition. On a preliminary question, the apportionment of the sum, and revision of the same, was referred to the Grand Committee.

The report as to the resignation of Foreign Ministers was taken up, and in the case of Mr. Jefferson, his mission was dispensed with; Mr. Dana's intimated return to America was approved of, unless engaged in a negotiation with the Court of St. Petersburg. (See the Journal.) The Eastern Delegates were averse to doing any thing as to Mr. Adams until further advices should be received. Mr. Laurens was indulged, not without some opposition. The

acceptance of his resignation was particularly enforced by Mr. IZARD.

WEDNESDAY, APRIL 2ND—THURSDAY, APRIL 3RD—
FRIDAY, APRIL 4TH—SATURDAY, APRIL 5TH.

See Journals.

The Grand Committee appointed to consider the proportions for the blanks in the Report on Revenue, &c., reported the following, grounded on the number of inhabitants in each State; observing that New Hampshire, Rhode Island, Connecticut, and Maryland, had produced authentic documents of their numbers; and that, in fixing the numbers of other States, they had been governed by such information as they could obtain. They also reduced the interest of the aggregate debt to two millions and a half.

| | Number of inhabitants. | | | | Proportions of one thousand. | | Proportions of one and a half millions. | |
|----------------|------------------------|---------|---|---|------------------------------|-----|---|---------|
| New Hampshire | - | 82,200 | - | - | - | 35 | - | 52,500 |
| Massachusetts | - | 350,000 | - | - | - | 148 | - | 222,000 |
| Rhode Island | - | 50,400 | - | - | - | 21 | - | 31,500 |
| Connecticut | - | 206,000 | - | - | - | 87 | - | 130,500 |
| New York | - | 200,000 | - | - | - | 85 | - | 127,500 |
| New Jersey | - | 130,000 | - | - | - | 55 | - | 82,500 |
| Pennsylvania | - | 320,000 | - | - | - | 136 | - | 204,000 |
| Delaware | - | 35,000 | - | - | - | 15 | - | 22,500 |
| Maryland | - | 220,700 | - | - | - | 94 | - | 141,000 |
| Virginia | - | 400,000 | - | - | - | 169 | - | 253,500 |
| North Carolina | - | 170,000 | - | - | - | 72 | - | 108,000 |
| South Carolina | - | 170,000 | - | - | - | 72 | - | 108,000 |
| Georgia | - | 25,000 | - | - | - | 11 | - | 16,500 |

2,359,300

1,000

1,500,000 an-

ual interest of debt, after deducting one million of dollars, expected from impost on trade.

A committee, consisting of Mr. HAMILTON, Mr. MADISON, and Mr. ELLSWORTH, was appointed to report the proper arrangements to be taken in consequence of peace. The object was to provide a system for foreign affairs, for Indian affairs, for military and naval establishments; and also to carry into execution the regulation of weights and measures, and other Articles of the Confederation not attended to during the war. To the same committee was referred a resolution of the Executive Council of Pennsylvania, requesting the Delegates of that State to urge Congress to establish a general peace with the Indians.⁶⁶

MONDAY, APRIL 7TH.

The sense of Congress having been taken on the truth of the numbers reported by the Grand Committee, the number allotted to South Carolina was reduced to one hundred and fifty thousand, on the representation of the Delegates of that State. The Delegates of New Jersey contended also for a reduction, but were unsuccessful. Those of Virginia also, on the principle that Congress ought not to depart from the relative numbers given in 1775, without being required by actual returns, which had not been obtained, either from that State or others, whose relation would be varied. To this reasoning were opposed the verbal and credible information received from different persons, and particularly Mr. MERCER, which made the number of inhabitants in

Virginia, after deducting two-fifths of the slaves, exceed the number allotted to that State. Congress were almost unanimous against the reduction. A motion was made by Mr. GERVAIS, seconded by Mr. MADISON, to reduce the number of Georgia to fifteen thousand, on the probability that their real number did not exceed it, and the cruelty of overloading a State which had been so much torn and exhausted by the war. The motion met with little support, and was almost unanimously negatived.

A letter was read from General Washington, expressing the joy of the army at the signing of the general preliminaries notified to him, and their satisfaction at the commutation of half-pay agreed to by Congress.

TUESDAY, APRIL 8TH.

Estimate of the debt of the United States, reported by the Grand Committee.

FOREIGN DEBT.

| | | | |
|---|---|--------|--------------------------|
| To the Farmers General of France | - | Livres | 1,000,000 |
| To Beaumarchois | - | - | 3,000,000 |
| To the King of France, to the end of 1782 | - | - | 28,000,000 |
| To the same, for 1783 | - | - | 6,000,000 |
| | | | <hr/> |
| | | | 38,000,000 = \$7,037,037 |
| Received on loan in Holland, 1,678,000 florins | - | - | 671,200 |
| Borrowed in Spain by Mr. Jay | - | - | 150,000 |
| Interest on Dutch debt, one year, at four per cent. | - | - | 26,348 |
| Total foreign debt | - | - | <hr/> |
| | | | <u>\$7,885,085</u> |

| | | | | | | | |
|--------------------|---|---|---|---|---|---|-------------|
| Total foreign debt | - | - | - | - | - | - | \$7,885,085 |
|--------------------|---|---|---|---|---|---|-------------|

DOMESTIC DEBT.

| | | | | | | |
|--|---|---|---|---|---|--------------|
| Loan office | - | - | - | - | - | \$11,463,802 |
| Interest unpaid for 1781 | - | - | - | - | - | 190,000 |
| Do. do. 1782 | - | - | - | - | - | 687,828 |
| Credit to sundry persons on Treasury books | - | - | - | - | - | 638,042 |
| Army debt to December the thirty-first, 1782 | - | - | - | - | - | 5,635,618 |
| Unliquidated debt | - | - | - | - | - | 8,000,000 |
| Deficiencies in 1783 | - | - | - | - | - | 2,000,000 |
| Total domestic debt | - | - | - | - | - | \$28,615,290 |
| Aggregate debt | - | - | - | - | - | \$36,500,375 |

INTEREST.

| | | | | |
|--|---|---|---|-------------|
| On foreign debt, 7,885,085, at four per cent. | - | - | - | \$315,403 |
| On domestic debt, 28,615,290, at six per cent. | - | - | - | 1,716,917 |
| On commutation of half-pay, estimated at 5,000,000, at six per cent. | - | - | - | 300,000 |
| Bounty to be paid, estimated at 500,000, at six per cent. | - | - | - | 30,000 |
| Aggregate of interest | - | - | - | \$2,362,320 |

A motion was made by Mr. HAMILTON, who had been absent on the question on the ninth paragraph of the Report on Revenue assessing quotas, to reconsider the same. Mr. FLOYD, who, being the only Delegate from New York then present on that question, could not vote, seconded the motion. For the arguments repeated, see the former remarks, on the seventh of April.

On the question the votes were Massachusetts, no; Rhode Island, no; Connecticut, no; New York, aye; New Jersey, aye; Pennsylvania, aye; Maryland, no; Virginia, aye; South Carolina, no.⁶³

WEDNESDAY, APRIL 9TH.

A memorial was received from General Hazen in behalf of the Canadians, who had engaged in the

cause of the United States, praying that a tract of vacant land on Lake Erie might be allotted to them.

Mr. WILSON, thereupon, moved that a committee be appointed to consider and report to Congress the measures proper to be taken with respect to the Western Country. In support of his motion, he observed, on the importance of that country, the danger, from immediate emigrations, of its being lost to the public; and the necessity, on the part of Congress, of taking care of the federal interests in the formation of new States.

Mr. MADISON observed, that the appointment of such a committee could not be necessary at this juncture, and might be injurious; that Congress were about to take in the Report on Revenue, &c., the only step that could now be properly taken, viz: to call again on the States claiming the Western Territory to cede the same; that, until the result should be known, every thing would be premature, and would excite in the States irritations and jealousies that might frustrate the cessions; that it was indispensable to obtain these cessions, in order to compromise the disputes, and to derive advantage from the territory to the United States; that if the motion meant merely to prevent irregular settlements, the recommendation to that effect ought to be made to the States; that if ascertaining and disposing of garrisons proper to be kept up in that country was the object, it was already in the hands of the Committee on Peace Arrangements, but might be expressly referred to them.

Mr. MERCER supported the same idea.

Mr. CLARK considered the motion as nowise connected with the peace arrangements; his object was to define the western limits of the States, which Congress alone could do, and which it was necessary they should do, in order to know what territory properly belonged to the United States, and what steps ought to be taken relative to it. He disapproved of repeatedly courting the States to make *cessions* which Congress stood in no need of.

Mr. WILSON seemed to consider, as the property of the United States, all territory over which particular States had not exercised jurisdiction, particularly northwest of the Ohio; and said, that within the country confirmed to the United States by the Provisional Articles, there must be a large country over which no particular claims extended.

He was answered, that the exercise of jurisdiction was not the criterion of territorial rights of the States; that Pennsylvania had maintained always a contrary doctrine; that if it were a criterion, Virginia had exercised jurisdiction over the Illinois and other places conquered northwest of the Ohio; that it was uncertain whether the limits of the United States, as fixed by the Provisional Articles, did comprehend any territory out of the claims of the individual States; that, should it be the case, a decision or examination of the point had best be put off till it should be seen whether cessions of the States would not render it unnecessary; that it could not be immediately necessary for the purpose of preventing settlements on such extra lands, since they must lie too remote to be in danger of it. Congress refused to refer the motion to the Committee on Peace

Arrangements, and by a large majority referred it to a Special Committee, viz: Messrs. OSGOOD, WILSON, MADISON, CARROLL, and WILLIAMSON; to whom was also referred the memorial of General Hazen.

On the preceding question, Connecticut was strenuous in favor of Mr. WILSON's motion.

A motion was made by Mr. DYER, to strike out the drawback on salt fish, &c. Mr. GORHAM protested in the most solemn manner that Massachusetts would never accede to the plan without the drawback. The motion was very little supported.

THURSDAY, APRIL 10TH.

Letters were received from General Carleton and Admiral Digby, enclosing the British Proclamation of the cessation of arms, and also letters from Dr. Franklin and Mr. Adams, notifying the conclusion of preliminaries between Great Britain and France, and Spain, with a declaration entered into with Mr. Fitzherbert, applying the epochs of cessation to the case of Great Britain and the United States. These papers were referred to the Secretary of Foreign Affairs, to report a Proclamation for Congress at six o'clock; at which time Congress met, and received the report nearly as it stands on the Journal of Friday, April the eleventh. After some consideration of the report as to the accuracy and propriety, of which a diversity of sentiments prevailed, they postponed it till next day. The Secretary also reported a resolution directing the Secretary at War and Agent of Marine to discharge all prisoners of war.

FRIDAY, APRIL 11TH.

This day was spent in discussing the Proclamation, which passed. Mr. WILSON proposed an abbreviation of it, which was disagreed to. The difficulties attending it were, first, the agreement of our Ministers with Fitzherbert, that the epochs with Spain as well as France should be applied to the United States, to be computed from the ratifications which happened at different times—the former on the third, the latter on the ninth, of February; second, the circumstance of the epochs having passed at which the cessation of hostilities was to be enjoined. The impatience of Congress did not admit of proper attention to these and some other points of the Proclamation; particularly the authoritative style of enjoining an observance on the United States, the Governors, &c. It was against these absurdities and improprieties that the solitary *no* of Mr. MERCER was pointed. See the Journal.⁶⁹

SATURDAY, APRIL 12TH.

A letter of the sixteenth of December, O. S., was received from Mr. Dana, in which he intimates that, in consequence of the news of peace taking place, and Independence being acknowledged by Great Britain, he expected soon to take his proper station at the Court of St. Petersburg, and to be engaged in forming a commercial treaty with Her Imperial Majesty.

Mr. MADISON observed, that as no powers or instructions had been given to Mr. Dana relative to a treaty of commerce, he apprehended there must be some mistake on the part of Mr. Dana; that it would be proper to inquire into the matter, and let him know the intentions of Congress on this subject. The letter was committed to Mr. MADISON, Mr. GORHAM, and Mr. FITZSIMMONS.

Mr. RUTLEDGE observed, that, as the instructions to Foreign Ministers now stood, it was conceived they had no powers for commercial stipulations, other than such as might be comprehended in a definitive treaty of peace with Great Britain. He said, he did not pretend to commercial knowledge, but thought it would be well for the United States to enter into commercial treaties with all nations, and particularly with Great Britain. He moved, therefore, that the Committee should be instructed to prepare a general report for that purpose.

Mr. MADISON and Mr. FITZSIMMONS thought it would be proper to be very circumspect in fettering our trade with stipulations to foreigners; that as our stipulations would extend to all the possessions of the United States necessarily, but those of foreign nations having colonies to part of their possessions only, and as the most favored nations enjoyed greater privileges in the United States than elsewhere, the United States gave an advantage in treaties on this subject; and, finally, that negotiations ought to be carried on here, or our Ministers directed to conclude nothing without previously reporting every thing for the sanction of Congress. It was at length agreed, that the Committee should

report the general state of instructions existing on the subject of commercial treaties.

Congress took into consideration the report of the Secretary of Foreign Affairs for immediately setting at liberty all the prisoners of war, and ratifying the Provisional Articles. Several members were extremely urgent on this point, from motives of economy. Others doubted whether Congress were bound thereto, and, if not bound, whether it would be proper. The first question depended on the import of the Provisional Articles, which were very differently interpreted by different members. After much discussion, from which a general opinion arose of extreme inaccuracy and ambiguity as to the force of these articles, the business was committed to Mr. MADISON, Mr. PETERS, and Mr. HAMILTON, who were also to report on the expediency of ratifying the said articles immediately.⁷⁰

MONDAY, APRIL 14TH.

The Committee, on the Report of the Secretary of Foreign Affairs, reported as follows—Mr. HAMILTON dissenting. *

* His dissent was founded on his construction of the treaty, as stated in a paper handed to Mr. MADISON at the time. The following is a copy :

“The words *such treaty* are relative.

“The antecedents must either be the ‘treaty proposed to be concluded between the Crown of Great Britain and the United States,’ or ‘the terms of peace to be agreed upon between Great Britain and France.’

“Let us see how it will read if we understand it in the first sense. The articles are ‘to be inserted, and to constitute the *treaty of Peace* proposed to be concluded between the Crown of Great Britain and the United States; but *which treaty* is not to be concluded (until terms of peace shall be agreed upon

First. That it does not appear that Congress are any wise bound to go into the ratification proposed. "The treaty" of which a ratification is to take place, as mentioned in the sixth of the Provisional Articles, is described in the title of those articles to be "a Treaty of Peace, proposed to be concluded between the Crown of Great Britain and the said United States, but which is not to be concluded until terms of peace shall be agreed upon between Great Britain and France." The act to be ratified, therefore, is not the Provisional Articles themselves, but an act *distinct, future, and even contingent*. Again, although the declaratory act entered into on the twentieth of January last, between the American and British Plenipotentiaries relative to a cessation of hostilities, seems to consider the contingency on which the Provisional Articles were suspended as having taken place, and that act cannot itself be considered as the "*Treaty of Peace meant to be concluded*;" nor does it stipulate that either the Provisional Articles, or the act itself, should be ratified in America; it only engages that the United States shall cause hostilities to cease on their part—an engagement which was duly fulfilled by the Proclamation issued on the eleventh instant; lastly, it does not appear, from the correspondence of the American

between Great Britain and France and) until his Britannic Majesty shall be ready to conclude *such treaty* accordingly."

"The words included in the parenthesis may in this case be omitted, and then the sentence will have no meaning.

"But if the words *such treaty* are construed as relative to the words *terms of peace*, the meaning will be plain; and if *terms of peace* have been agreed upon between France and Britain, then the *contingency* has happened on which the *proposed treaty* between America and Britain was to take effect." *

* See his change of opinion expressed in the debates of April the sixteenth.

Ministers, or from any other information, either that such ratification was expected from the United States, or intended on the part of Great Britain; still less that any exchange of mutual ratifications has been in contemplation.

Second. If Congress are not bound to ratify the articles in question, the Committee are of opinion, that it is inexpedient for them to go immediately into such an act; inasmuch as it might be thought to argue that Congress meant to give to those articles the quality and effect of a definitive treaty of peace with Great Britain, though neither their allies nor friends have as yet proceeded further than to sign Preliminary Articles; and inasmuch as it may oblige Congress to fulfil immediately all the stipulations contained in the Provisional Articles, though they have no evidence that a correspondent obligation will be assumed by the other party.

Third. If the ratification in question be neither obligatory nor expedient, the Committee are of opinion, that an immediate discharge of all prisoners of war, on the part of the United States, is premature and unadvisable; especially, as such a step may possibly lessen the force of demands for a reimbursement of the sums expended in the subsistence of the prisoners.

Upon these considerations, the Committee recommend that a decision of Congress on the papers referred to them be postponed.

On this subject, a variety of sentiments prevailed.

Mr. DYER, on a principle of frugality, was strenuous for a liberation of the prisoners.

Mr. WILLIAMSON thought Congress not obliged to

discharge the prisoners previous to a definitive treaty, but was willing to go into the measure as soon as the public honor would permit. He wished us to move, *pari passu*, with the British commander at New York. He suspected that that place would be held till the interests of the Tories should be provided for.

Mr. HAMILTON contended, that Congress were bound, by the tenor of the provisional treaty, immediately to ratify it, and to execute the several stipulations inserted in it; particularly that relating to a discharge of prisoners.

Mr. BLAND thought Congress not bound.

Mr. ELLSWORTH was strenuous for the obligation and policy of going into an immediate execution of the treaty. He supposed, that a ready and generous execution on our part would accelerate the like on the other part.

Mr. WILSON was not surprised that the obscurity of the treaty should produce a variety of ideas. He thought, upon the whole, that the treaty was to be regarded as "contingently definitive."

The Report of the Committee being not consonant to the prevailing sense of Congress, it was laid aside.

TUESDAY, APRIL 15TH.

The ratification of the treaty and discharge of prisoners were again agitated. For the result in a unanimous ratification, see the secret Journal of this day; the urgency of the majority producing an acquiescence of most of the opponents to the measure.⁷¹

WEDNESDAY, APRIL 16TH.

Mr. HAMILTON acknowledged that he began to view the *obligation* of the provisional treaty in a different light, and, in consequence, wished to vary the direction of the Commander-in-Chief from a positive to a preparatory one, as his motion on the Journal states.⁷²

THURSDAY, APRIL 17TH.

Mr. MADISON, with the *permission* of the Committee on Revenue, reported the following clause, to be added to the tenth paragraph in the first report, viz:

“And to the end that convenient provision may be made for determining, in all such cases, how far the expenses may have been reasonable, as well with respect to the object thereof, as the means for accomplishing it, thirteen commissioners—namely, one out of each State—shall be appointed by Congress, any seven of whom (having first taken an oath for the faithful and impartial execution of their trust) who shall concur in the same opinion shall be empowered to determine finally on the reasonableness of the claims for expenses incurred by particular States as aforesaid; and, in order that such determinations may be expedited as much as possible, the commissioners now in appointment for adjusting accounts between the United States and individual States shall be instructed to examine all such claims, and

report to Congress such of them as shall be supported by satisfactory proofs, distinguishing, in their reports, the objects and measures in which the expenses shall have been incurred; provided, that no balances, which may be found due under this regulation, or the resolutions of the ——— day of ———, shall be deducted out of the preceding revenues; but shall be discharged by separate requisitions to be made on the States for that purpose."

In support of this proposition it was argued, that, in a general provision for public debts and public tranquillity, satisfactory measures ought to be taken on a point which many of the States had so much at heart, and which they would not separate from the other matters proposed by Congress; that the nature of the business was unfit for the decision of Congress, who brought with them the spirit of advocates rather than of judges, and, besides, it required more time than could be spared for it.

On the opposite side, some contended, that the accounts between the United States and particular States should not be made in any manner to encumber those between the former and private persons. Others thought that Congress could not delegate to commissioners a power of allowing claims for which the Confederation required nine States. Others were unwilling to open so wide a door for claims on the common treasury.

On the question, Massachusetts, divided; Connecticut, aye; Rhode Island, no; New York, no; New Jersey, no; Pennsylvania, no; Maryland, no; Virginia, aye; North Carolina, no; South Carolina, no.

FRIDAY, APRIL 18TH.

Application was made from the Council of Pennsylvania for the determination of Congress as to the effect of the acts terminating hostilities, on acts to be enforced during the war. Congress declined giving any opinion.

The motion of Mr. BLAND for striking out the recommendation to the States which had agreed to cede territory, to revise and *complete* their cessions, raised a long debate. In favor of the motion, it was urged, by Mr. RUTLEDGE, that the proposed cession of Virginia ought to be previously considered and disallowed; that otherwise a renewal of the recommendation would be offensive; that it was possible the cession might be accepted, in which case the renewal would be improper. Virginia, he observed, alone could be alluded to as having complied in part only.

Mr. WILSON went largely into the subject. He said, *if the investigation of right* was to be considered, the United States ought rather to make cessions to individual States than receive cessions from them, the extent of the territory ceded by the treaty being larger than all the States put together; that when the claims of the States came to be limited on principles of right, the Alleghany mountains would appear to be the true boundary; this could be established, without difficulty, before any court, or the tribunal of the world. He thought, however, policy required that such a boundary should be established as would give to the Atlantic States access to the

Western waters. *If accommodation* was the object, the clause ought, by no means, to be struck out. The cession of Virginia would never be accepted, because it guarantied to her the country as far as the Ohio, which never belonged to Virginia. (Here he was called to order by Mr. JONES.) The question, he said, must be decided. The indecision of Congress had been hurtful to the interests of the United States. If the compliance of Virginia was to be sought, she ought to be urged to comply fully.

For the vote in the affirmative, with the exception of Virginia and South Carolina, see Journal.

The plan of revenue was then passed as it had been amended, all the States present concurring except Rhode Island, which was in the negative, and New York, which was divided: Mr. FLOYD, aye, and Mr. HAMILTON, no.⁷³

MONDAY, APRIL 21ST.

A motion was made by Mr. HAMILTON, seconded by Mr. MADISON, to annex, to the plan of the eighteenth instant, the part omitted, relating to expenses incurred by individual States. On the question, New York, Pennsylvania, and Virginia alone were in the affirmative; Connecticut and Georgia not present.

TUESDAY, APRIL 22ND.

See Journal.

WEDNESDAY APRIL 23RD.

The resolution permitting the soldiers to retain their arms was passed at the recommendation of General Washington. (See his letter on the files.)

The resolution for granting furloughs or discharges was a compromise between those who wished to get rid of the expense of keeping the men in the field, and those who thought it impolitic to disband the army whilst the British remained in the United States.⁷⁴

THURSDAY, APRIL 24TH, and FRIDAY, APRIL 25TH.

See Journal.

SATURDAY, APRIL 26TH.

* Address to the States passed *nem. con.* It was drawn up by Mr. MADISON. The address to Rhode Island, referred to as No. 2, had been drawn up by Mr. HAMILTON.⁷⁵

The writer of these notes absent till

MONDAY, MAY 5TH.

Mr. BLAND and Mr. MERCER moved to erase from the Journal the resolution of Friday, the second

* See Appendix, No. 2.

instant, applying for an addition of three millions to the grant of six millions, by His Most Christian Majesty, as in part of the loan of four millions, requested by the resolution of September the fourteenth, 1782. As the resolution of the second had been passed by fewer than nine States, they contended that it was unconstitutional. The reply was, that as the three millions were to be part of a loan heretofore authorized, the sanction of nine States was not necessary. The motion was negatived, the two movers alone voting in the affirmative.⁷⁶

TUESDAY, MAY 6TH.

A motion was made by Mr. LEE, to recommend to the several States to pass laws indemnifying officers of the army for damages sustained by individuals from acts of such officers rendered necessary in the execution of their military functions. It was referred to Mr. LEE, Mr. WILLIAMSON, and Mr. CLARK.

He proposed, also, that an equestrian statue should be erected to General Washington.⁷⁷

A report from the Secretary of Foreign Affairs, of a treaty of commerce to be entered into with Great Britain, was referred to Mr. FITZSIMMONS, Mr. HIGGINSON, Mr. RUTLEDGE, Mr. HELMSLEY, and Mr. MADISON.

WEDNESDAY, MAY 7TH.

The resolution moved yesterday, by Mr. LEE, for indemnifying military officers, being reported by the Committee, was agreed to.

The Committee, on a motion of Mr. DYER, reported that the States which had settled with their respective lines of the army for their pay since August the first, 1780, should receive the securities which would otherwise be due to such lines.

The Report was opposed, on the ground that the settlements had not been discharged in the value due. The notes issued in payment, by Connecticut, were complained of, as being of little value.

The Report was disagreed to.

See Journal.⁷⁸

THURSDAY, MAY 8TH.

Mr. BLAND suggested, that the prisoners of war should be detained until an answer be given as to the delivery of slaves, represented in a letter to Mr. Thomas Walke, to be refused on the part of Sir Guy Carleton.

On his motion, seconded by Mr. WILLIAMSON, it was ordered that the letter be sent to General Washington for his information, in carrying into effect the resolution of April the fifteenth, touching arrangements with the British Commander for delivery of the posts, negroes, &c.

A portrait of Don Galvez was presented to Congress by Oliver Pollock.⁷⁹

FRIDAY, MAY 9TH.

A question on a report relating to the occupying the posts when evacuated by the British was postponed by Virginia, in right of a State.

Mr. DYER moved a recommendation to the States to restore confiscated property, conformably to the provisional articles. The motion produced a debate, which went off without any positive result.⁵⁰

Adjourned to

MONDAY, MAY 12TH.

See Journal.

TUESDAY, MAY 13TH.

No Congress.

WEDNESDAY, MAY 14TH.

Mr. HAMILTON and Mr. ELLSWORTH moved a call on the States to fulfil the recommendation relative to the Tories. After some remarks on the subject the House adjourned.⁸¹

THURSDAY, MAY 15TH.

See Journal.

The Report relating to the Department of Foreign Affairs was taken up, and, after some discussion of the expediency of raising the salary of the Secretary, Congress adjourned.

FRIDAY, MAY 16TH.

See Journal.

SATURDAY, MAY 17TH.

No Congress.

MONDAY, MAY 19TH.

Spent in debating the Report recommending provision for Tories according to the provisional articles of peace.

TUESDAY, MAY 20TH.

On the proposal to discharge the troops who had been enlisted for the war, (amounting to ten thousand men,) from the want of means to support them—

Mr. CARROLL urged the expediency of caution; the possibility that advantage might be taken by Great Britain of a discharge, both of prisoners and of the army; and suggested the middle course, of furloughing the troops.

Mr. DYER was strenuous for getting rid of expense; considered the war at an end; that Great Britain might as well renew the war after the definitive treaty as now; that not a moment ought to be lost in disburdening the public of needless expense.

Mr. RUTLEDGE viewed the conduct of Great Britain in so serious a light, that he almost regretted having voted for a discharge of prisoners. He urged the expediency of caution, and of consulting the Commander-in-Chief. He accordingly moved that the Report be referred to him for his opinion and advice. The motion was seconded by Mr. IZARD.

Mr. CLARK asked whether any military operation was on foot, that the Commander-in-Chief was to be consulted. This was a national question, which the national council ought to decide. He was against furloughing the men, because they would carry their arms with them. He said we were at peace, and complained that some could not separate the idea of a Briton from that of cutting throats.

Mr. ELLSWORTH enlarged on the impropriety of submitting to the Commander-in-Chief a point on which he could not possess competent materials for deciding. We ought either to discharge the men engaged for the war, or to furlough them. He preferred the former.

Mr. MERCER descanted on the insidiousness of Great Britain, and warmly opposed the idea of laying ourselves at her mercy that we might save fifty thousand dollars, although Congress knew they were violating the treaty as to negroes.

Mr. WILLIAMSON proposed that the soldiers be furloughed. Mr. CARROLL seconded him, that the two

modes of furlough and discharge might both lie on the table.

By general consent this took place.

The Report as to confiscated property, on the instructions from Virginia and Pennsylvania, was taken up, and agreed to be recommitted, together with a motion of Mr. MADISON, to provide for the case of Canadian refugees, and for settlement of accounts with the British; and a motion of Mr. HAMILTON to insert, in a definitive treaty, a mutual stipulation not to keep a naval force on the lakes.⁸²

WEDNESDAY, MAY 21ST, THURSDAY, MAY 22ND.

See the Secret Journal for these two days.

The passage relating to the armed neutrality was generally concurred in for the reasons which it expresses.

The disagreements on the questions relating to a treaty of commerce with Russia were occasioned chiefly by sympathies, particularly in the Massachusetts delegation, with Mr. Dana; and by an eye, in the navigating and ship-building States, to the Russian articles of iron and hemp. They were supported by South Carolina, who calculated on a Russian market for her rice.⁸³

FRIDAY, MAY 23RD.

The Report from Messrs. HAMILTON, GORHAM, and PETERS, in favor of discharging the soldiers enlisted

for the war, was supported on the ground that it was called for by economy, and justified by the degree of certainty that the war would not be renewed. Those who voted for furloughing the soldiers wished to avoid expense, and at the same time to be not wholly unprepared for the contingent failure of a definitive treaty of peace. The views of the subject taken by those who were opposed both to discharging and furloughing, were explained in a motion by Mr. MERCER, seconded by Mr. IZARD, to assign as reasons, first, that Sir Guy Carleton had not given satisfactory reasons for continuing at New York; second, that he had broken the Articles of the Provisional Treaty relative to the negroes, by sending them off.

This motion appeared exceptionable to several, particularly to Mr. HAMILTON; and rather than it should be entered on the Journal by yeas and nays, it was agreed that the whole subject should lie over.

The Report relative to the Department of Foreign Affairs being taken up, Mr. CARROLL, seconded by Mr. WILLIAMSON, moved that no public minister should be employed by the United States except on extraordinary occasions.

In support of the proposition it was observed, that it would not only be economical, but would withhold our distinguished citizens from the corrupting scenes at Foreign Courts, and, what was of more consequence, would prevent the residence of foreign ministers in the United States, whose intrigues and examples might be injurious both to the government and the people.

The considerations suggested on the other side

were, that diplomatic relations made part of the established policy of modern civilized nations; that they tended to prevent hostile collisions by mutual and friendly explanations; and that a young Republic ought not to incur the odium of so singular, and it might be thought disrespectful, an innovation. The discussion was closed by an adjournment till Monday.

MONDAY, MAY 26TH.

The Resolutions on the Journal instructing the Ministers in Europe to remonstrate against the carrying off the negroes—also those for furloughing the troops—passed *unanimously*.⁸⁴

TUESDAY, MAY 27TH and WEDNESDAY, MAY 28TH.

No Congress.

THURSDAY, MAY 29TH.

The Report of the Committee concerning interest on British debts was committed, after some discussion.

FRIDAY, MAY 30TH.

The debates on the Report recommending to the States a compliance with the fourth, fifth, and sixth

of the Provisional Articles, were renewed; the Report being finally committed *nem. con.* See Secret Journal.

The Report, including the objections to interest on British debts, was also agreed to *nem. con.*; not very cordially by some who were indifferent to the object, and by others who doubted the mode of seeking it by a new stipulation.⁸⁵

MONDAY and TUESDAY, JUNE 2ND and 3RD.

See Journal.

WEDNESDAY, JUNE 4TH.

The Report of the Committee for giving to the army certificates for land was taken up. After some discussion of the subject—some members being for, some against, making the certificates transferable—it was agreed that the Report should lie on the table.

For what passed in relation to the cession of vacant territory by Virginia, see the Journal.

Whilst Mr. HAMILTON's motion relating to Mr. Livingston, Secretary of Foreign Affairs, was before the House, Mr. PETERS moved, in order to detain Mr. Livingston in office, that it be declared, by the seven States present, that the salary ought to be augmented. To this it was objected—first, that it would be an assumption of power in seven States to

say, what nine States ought to do; second, that it might ensnare Mr. Livingston; third, that it would commit the present, who ought to be open to discussion when nine States should be on the floor. The motion of Mr. PETERS being withdrawn, that of Mr. HAMILTON was agreed to.⁸⁶

THURSDAY, JUNE 5TH.

See Journal.

FRIDAY, JUNE 6TH.

The Report as to the territorial cession of Virginia, after some uninteresting debate, was adjourned.

MONDAY, JUNE 9TH.

Not States enough assembled to form a Congress. Mr. CLARK signified to those present, that the Delegates of New Jersey being instructed on the subject of the back lands, he should communicate the Report thereon to his constituents.⁸⁷

TUESDAY, JUNE 10TH.

The Report on the cession of Virginia was taken up. Mr. ELLSWORTH urged the expediency of deciding immediately on the cession. Mr. HAMILTON joined

him, asserting at the same time the right of the United States. He moved an amendment in favor of private claims. Mr. CLARK was strenuous for the right of the United States, and against waiting longer, (this had reference to the absence of Maryland, which had always taken a deep interest in the question.) Mr. GORHAM supported the policy of acceding to the Report. Mr. FITZSIMMONS recommended a postponement of the question, observing, that he had sent a copy of the Report to the Maryland Delegates. The President was for a postponement till the sense of New Jersey be known. The Delaware Delegates, expecting instructions, were for postponing till Monday next. It was agreed, at length, that a final vote should not be taken till that day. Mr. MADISON yielding to the sense of the House, but warning that the opportunity might be lost by the rising of the Legislature of Virginia.

Mr. HAMILTON and Mr. PETERS, with permission, moved for a re-commitment of the Report, in order to provide for crown titles within the territory reserved to the State. Mr. MADISON objected to the motion, since an amendment might be prepared during the week, and proposed on Monday next. This was acquiesced in. It was agreed that the President might informally notify private companies and others, as well as the Maryland Delegates, of the time at which the Report would be taken into consideration.

The order of the day for appointing a Secretary of Foreign Affairs was called for, and none having been put in nomination, the order was postponed. Mr. BLAND then nominated Mr. Arthur Lee. Mr.

GORHAM nominated Mr. Jefferson, but being told he would not accept, then named Mr. Tilghman. Mr. HIGGINSON nominated Mr. Jonathan Trumbull. Mr. MONTGOMERY nominated Mr. George Clymer. It was understood that General Schuyler remained in nomination.

WEDNESDAY, JUNE 11TH.

See Journals, secret and public.

THURSDAY, JUNE 12TH.

The instruction in the Secret Journal touching the principles, &c., of the neutral Confederacy, passed unanimously.

The resolution, as reported by the Committee, being in a *positive* style, and *eight* States only being present, the question occurred whether nine States were not necessary. To avoid the difficulty, a negative form was given to the resolution, by which the preamble became somewhat unsuitable. It was suffered to pass, however, rather than risk the experiment of further alteration.⁸⁸

FRIDAY, JUNE 13TH.

The mutinous memorial from the sergeants was received and read. It excited much indignation, and was sent to the Secretary at War.⁸⁹

MONDAY, JUNE 16TH.

No Congress.

TUESDAY, JUNE 17TH.

The day was employed chiefly in considering the Report on the Journal relative to the Department of Finance. Some thought it ought to lie on the files; some that it ought to receive a vote of approbation, and that the Superintendent should, for the period examined, be acquitted of further responsibility. Mr. GORHAM, particularly, was of that opinion. Finally, the Report was entered on the Journal, without any act of Congress thereon, by a unanimous concurrence.⁹⁰

WEDNESDAY, JUNE 18TH.

Nothing done.

THURSDAY, JUNE 19TH.

A motion was made by Mr. WILLIAMSON, seconded by Mr. BLAND, to recommend to the States to make it a part of the Confederation, that, whenever a *fourteenth* State should be added to the Union, *ten* votes be required in cases now requiring nine. It was

committed to Mr. WILLIAMSON, Mr. HAMILTON, and Mr. MADISON. The motion had reference to the foreseen creation of the western part of North Carolina into a separate State.

Information was received by Congress, from the Executive Council of Pennsylvania, that eighty soldiers, who would probably be followed by the discharged soldiers of Armand's Legion, were on the way from Lancaster to Philadelphia, in spite of the expostulations of their officers, declaring that they would proceed to the seat of Congress and demand justice, and intimating designs against the Bank. This information was committed to Mr. HAMILTON, Mr. PETERS, and Mr. ELLSWORTH, for the purpose of conferring with the Executive of Pennsylvania, and taking such measures as they should find necessary. The Committee, after so conferring, informed Congress that it was the opinion of the Executive that the militia of Philadelphia would probably not be willing to take arms before their resentments should be provoked by some actual outrage; that it would hazard the authority of government to make the attempt; and that it would be necessary to let the soldiers come into the city, if the officers who had gone out to meet them could not stop them.

At this information Mr. IZARD, Mr. MERCER, and others, being much displeased, signified that if the city would not support Congress, it was high time to remove to some other place. Mr. WILSON remarked, that no part of the United States was better disposed towards Congress than Pennsylvania, where the prevailing sentiment was, that Congress had done every thing that depended on them. After some

conversation, and directing General St. Clair, who had gone out of town, to be sent for; and, it appearing that nothing further could be done at present, Congress adjourned. The Secretary at War had set out for Virginia yesterday. It was proposed to send for him, but declined, as he had probably gone too great a distance, and General St. Clair, it was supposed, would answer.

FRIDAY, JUNE 20TH.

The soldiers from Lancaster came into the city under the guidance of sergeants. They professed to have no other object than to obtain a settlement of accounts, which they supposed they had a better chance for at Philadelphia than at Lancaster. See the Report of the Committee on that subject.

The Report of the Committee (see the Journal) on the territorial cession of Virginia being taken up, and the amendment on the Journal, proposed by Mr. McHENRY and Mr. CLARK, being lost, Mr. BEDFORD proposed that the second condition of the cession be so altered as to read, "that in order to comply with the said condition, so far as the same is comprised within the Resolution of October the tenth, 1780, on that subject, Commissioners, as proposed by the Committee, be appointed, &c.," and that instead of "for the purposes mentioned in the said condition," be substituted "agreeably to that resolution." In support of this alteration, it was urged by Mr. McHENRY, Mr. BEDFORD, and Mr. CLARK, that the terms

used by Virginia were too comprehensive and indefinite. In favor of the Report of the Committee, it was contended by Mr. ELLSWORTH, that the alteration was unreasonable, inasmuch as *civil* expenses were on the same footing of equity as military, and that a compromise was the object of the Committee. Sundry members were of opinion, that civil expenses were comprised in the Resolution of October the tenth, 1780. Mr. BLAND and Mr. MERCER acceded to the alteration proposed; Mr. MADISON alone dissented, and therefore did not insist on a call for the votes of the States. Mr. McHENRY moved, but without being seconded, "that the Commissioners, instead of deciding finally, should be authorized to report to Congress only."

In the course of the debate, Mr. CLARK laid before Congress the remonstrance of New Jersey, as entered on the Journal.

As the Report had been postponed at the instance of the President and other Delegates of New Jersey, in order to obtain this answer from their constituents, and as the remonstrance was dated on the fourteenth of June, and was confessed privately by Mr. ———, to have been in possession of the Delegates on Monday last, an unfairness was complained of. They supposed that, if it had been laid before Congress sooner, the copy which would have been sent by the Virginia Delegates might hasten the opening of the land-office of that State. Mr. CLARK said, there were still good prospects, and he did not doubt that the time would yet come, when Congress would draw a line, limiting the States to the westward, and say, thus far shall ye go, and no further.

Mr. BEDFORD moved, that with respect to the fourth and fifth conditions of the cessions, "it be declared, that Clark and his men, and the Virginia line, be allowed the same bounty beyond the Ohio, as was allowed by the United States to the same ranks." This motion was seconded by Mr. ———; Congress adjourned without debating it; there being seven States only present, and the spirit of compromise decreasing.

From several circumstances, there was reason to believe that Rhode Island, New Jersey, Pennsylvania, and Delaware, if not Maryland, also retained latent views of confining Virginia to the Alleghany mountains.

Notice was taken by Mr. MADISON of the error in the remonstrance, which recites "that Congress had declared the cession of Virginia to be a partial one."⁹¹

SATURDAY, JUNE 21ST.

The mutinous soldiers presented themselves, drawn up in the street before the State-house, where Congress had assembled. The Executive Council of the State, sitting under the same roof, was called on for the proper interposition. President Dickinson came in, and explained the difficulty, under actual circumstances, of bringing out the militia of the place for the suppression of the mutiny. He thought that without some outrages on persons or property, the militia could not be relied on. General St. Clair, then in Philadelphia, was sent for, and desired to use his interposition, in order to prevail on

the troops to return to the barracks. His report gave no encouragement.

In this posture of things, it was proposed by Mr. IZARD, that Congress should adjourn. It was proposed by Mr. HAMILTON, that General St. Clair, in concert with the Executive Council of the State, should take order for terminating the mutiny. Mr. REED moved, that the General should endeavour to withdraw the troops by assuring them of the disposition of Congress to do them justice. It was finally agreed, that Congress should remain till the usual hour of adjournment, but without taking any step in relation to the alleged grievances of the soldiers, or any other business whatever. In the mean time, the soldiers remained in their position, without offering any violence—individuals only, occasionally, uttering offensive words, and wantonly pointing their muskets to the windows of the Hall of Congress. No danger from premeditated violence was apprehended, but it was observed that spirituous drink, from the tippling-houses adjoining, began to be liberally served out to the soldiers, and might lead to hasty excesses. None were committed, however, and about three o'clock, the usual hour, Congress adjourned; the soldiers, though in some instances offering a mock obstruction, permitting the members to pass through their ranks. They soon afterwards retired themselves to the barracks.

In the evening Congress re-assembled, and passed the resolutions on the Journal, authorizing a Committee to confer anew with the Executive of the State, and, in case no satisfactory grounds should appear for expecting prompt and adequate exertions

for suppressing the mutiny and supporting the public authority, authorizing the President, with the advice of the Committee, to summon the members to meet at Trenton or Princeton, in New Jersey.

The conference with the Executive produced nothing but a repetition of doubts concerning the disposition of the militia to act, unless some actual outrage were offered to persons or property. It was even doubted whether a repetition of the insult to Congress would be a sufficient provocation.

During the deliberations of the Executive, and the suspense of the Committee, reports from the barracks were in constant vibration. At one moment, the mutineers were penitent and preparing submissions; the next, they were meditating more violent measures. Sometimes the bank was their object; then the seizure of the members of Congress, with whom they imagined an indemnity for their offence might be stipulated. On Tuesday, about two o'clock, the efforts of the State authority being despaired of, and the reports from the barracks being unfavorable, the Committee advised the President to summon Congress to meet at Trenton, which he did verbally as to the members present, leaving behind him a General Proclamation for the press.

After the departure of Congress, the mutineers submitted, and most of them accepted furloughs under the resolution of Congress on that subject. At the time of submission, they betrayed their leaders, the chief of whom proved to be a Mr. Carberry, a deranged officer, and a Mr. Sullivan, a lieutenant of horse; both of whom made their escape. Some of the most active of the sergeants also ran off.⁹²

LETTERS

CONTEMPORARY WITH, AND SUBSEQUENT TO,
THE DEBATES OF 1783.

TO EDMUND RANDOLPH.

Philadelphia, November 5, 1782.

DEAR SIR,

My last informed you that a proposition had been made in Congress for accepting the territorial cession of New York. The paper enclosed contains the proceedings which ensued. The acceptance of this cession, *singly*, met with a negative from Virginia, for obvious reasons. In the first place, such a measure, instead of terminating all controversy as to the Western country—the object proposed by the original plan—introduces new perplexities; and, in the second place, an assent from us might be hereafter pleaded as a voluntary acceptance of the United States in the room of New York, as litigants against Virginia.

On the subsequent motion you will find Virginia divided. The proviso* expressed in this motion, if referred to the territory retained by New York, appeared to me to be at least nugatory, or rather to imply that a resolution of Congress might operate towards depriving another State of the benefits of the Confederation; and, if referred to the territory ceded by New York, to imply that the ninth Article

* See Journal.

was the constitutional rule of deciding controversies, as well where the United States as where a particular State were the party. All that Congress could, as I supposed, have properly done, would have been to guard against any bias on future decisions, by declaring that their acceptance of the cession of New York was not to be considered as expressing any opinion as to the rightful claims or limits of that State. But I did not feel myself at liberty to substitute such a proposition, because it militated against the guarantee required by Virginia, and would have prejudged that condition of her cession.

The success of the middle States in obtaining the cession of New York has given great encouragement, and they are pursuing steadily the means of availing themselves of the other titles. That of Connecticut is proposed for the next object. Virginia will be postponed for the last. By enlisting the two preceding into their party, they hope to render their measures more effectual with respect to the last.

Besides the effect which may be expected from this coalition with New York, on territorial questions in Congress, it will, I surmise, prove very unfriendly to the pretensions of Vermont. Duane seems not unapprised of the advantage which New York has gained, and is already taking measures for a speedy vote on that question. Upon the whole, New York has, by a fortunate coincidence of circumstances, or by skilful management, or by both, succeeded in a very important object: by ceding a claim which was tenable neither by force nor by right, she has acquired with Congress the merit of liberality, rendered the title to her reservation more respectable

and, at least, damped the *ardor** with which Vermont has been abetted. If you should be surprised that these considerations did not dissuade Connecticut from an unqualified acceptance of the cession of New York, you will only be affected as others were at the time. The truth is, they were surprised at it themselves after it was too late, and would gladly have revoked their error.⁹³

You were also informed, in my last, of the situation in which the affair of Lippencot remained. In the midst of our perplexities a letter arrived from General Washington, enclosing an intercession from the Count de Vergennes, in favor of the life of young Asgill, founded on a most pathetic and importunate memorial from his mother. The Count writes to General Washington, as he says, not in the quality of a public minister, but of a man who feels the force of Mrs. Asgill's supplications. He backs his intercession, however, with the desire of the King and Queen, who were much affected with the memorial; observes that, although Asgill is, no doubt, a prisoner of the United States, yet, as he became such by an event to which the arms of His Majesty contributed, the interest he takes in behalf of this officer is the more admissible; and signifies that, if the British Commander should not, in this instance, fully comply with the demands of justice, there is reason to believe that future instances of barbarity will be prevented.

The judgment formed of this intercession, by different members, is very different. All *parties**

* The words in italics in this page are represented in Mr. Madison's Manuscript by cyphers;—187 in the first instance, and 700 in the second, the key to which has not been discovered.

agree that retaliation cannot be executed in the face of it. But some are of opinion that it luckily affords, and ought to be made, the ground of retreat from that measure; whilst others supposed that our honor will be more wounded by such a public exposure, both of our obsequiousness to France, and of her disapprobation of our views, than by a retreat of ourselves, on the ground of Carleton's promise to continue his pursuit of the murderer. Some fear, also, that an omission in our act of the wish expressed on the part of the King and Queen of France may give umbrage. Others, again, infer from the circumstances of the letter from the Count being addressed to General Washington, not to Congress, and in his private, not official, quality, that a public notice of it cannot be expected; and that a private explanation, by the Secretary of Foreign Affairs to the Minister of France, will be as much as will be proper.

The Minister also received an instruction to interest himself in the affair, and had even prepared a memorial to Congress relative to it. Having discovered, however, the diversity of sentiments prevailing in Congress, and being apprehensive that his interposition might render the case more perplexing, and possibly be not treated with due notice in the final act of Congress, he very prudently desisted from his purpose.

Until Congress shall have come to some decision with respect to the notice to be taken of the intercession above-mentioned, I would not wish it to be *generally* spoken of from this letter.⁹¹

Yesterday being the first Monday in November,

the vacant chair was filled by Mr. BOUDINOT. The distribution of the votes was as follows: For Mr. BOUDINOT, New Hampshire, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland; for Mr. BLAND, Virginia, South Carolina; for Mr. RUTLEDGE, North Carolina; for Mr. NASH, New York. Massachusetts had no Delegate present but Mr. OSGOOD. Georgia was wholly unrepresented. As you were present at the last election, I need not recite to you the motives to the one in question.

A letter from Carmichael, dated the eighth of July, says, that the resolutions of Congress and the States against separate negotiations with the new British Ministry were exceedingly applauded at the Spanish Court; and that he had discovered that the Imperial and Russian Ministers had renewed an offer of their Courts to Spain. The silence of our other Ministers, in letters of later date, renders the latter article very doubtful.

A letter of the fifth of September, from Mr. Laurens, at Nantz, repeats his purpose to return to America; adding, that the risk of capture, and the advice of his friends, had led him to apply to the Court of London for a passport, *via* Falmouth and New York, to Philadelphia; that Lord Cornwallis had interested himself in his case, and that the passport was to be transmitted to him. It was uncertain whether he was to embark this fall or wait till the spring. Unless the embarkation from a British port was more ^{726*} than I am aware, a direct passport from France would, in my view, have been more eligible.

* The key to this cypher has not been discovered.

The army, we are informed, by a letter from General Washington of the thirtieth ultimo, are going into their winter cantonments. Part of the British fleet—consisting of fourteen ships of the line, one of forty guns, seven frigates, and fourteen transports, sailed from New York on the twenty-fifth, supposed to be bound to the West Indies, and to have no troops on board. Two vessels were despatched, it is said, for Charleston, immediately after the arrival of the last packet, for the purpose of countermanding the evacuation.

Mr. JONES has recovered rapidly within a few days past, and has once more got about.

Your favor of the twenty-sixth, past, was duly received yesterday. I am anxious for the new cypher which it promises, as well for my own use as yours, and for the same reasons. I conclude, from your silence as to my late communications in L———l's cypher, that the key I sent you some time ago answered its purpose.⁹⁵

TO EDMUND RANDOLPH.

Philadelphia, November 19, 1782.

DEAR SIR,

I find, by your favor of the eighth, that your occupation with the Court has continued to be a bar to the completion of the cypher. It is very little missed, however, on my part, as yet; the scantiness of intelligence being still unremoved. We have, indeed, reports without stint, but they are often most frequent when they have least foundation. Such of them as have the best title to notice will be found

in the newspapers. The proceedings of Congress, for a week past, have been equally unproductive of epistolary matter. For one-half of the time we have failed in making a house, and the remaining half has been spent on minute objects.

Colonel Bland set out on Friday last. He carried with him an official notification to Mr. Jefferson of his appointment. I wrote to the latter, informing him of an excellent passage, if he could be ready for it, in about a month, but urging a previous visit to to this place as indispensable. Although, strictly speaking, such a visit may not be essential, since the commission and instructions referred to in his appointment are at the place of his destination, yet I wish him to be made sensible of the salutary information which may be added to them. Col. Bland also carried to the Governor an extract of a letter from General Irwin at Fort Pitt, which displays in full colors the avidity of the Western people for the vacant lands and for separate governments. On this subject, Richmond, I suppose, will afford better information. I take it for granted, that every material article of it, with the steps taken by the Legislatures with respect to Western affairs in general, will fall within your correspondence.

The prospect derived from the impost of the five per cent. seems to be pretty thoroughly blasted by a unanimous and final veto by the Assembly of Rhode Island. This State, by its Delegates, (who fully represent the aversion of their constituents to the impost,) voted in Congress that six millions of dollars were necessary for the year '83; that two millions were as much as the States could raise, and

as ought to be required by Congress; and that applications for loans in Europe ought to be relied on for the residue. And yet they absolutely refuse the only fund which could be satisfactory to lenders. The indignation against this perverse sister is increased by her shameful delinquency in the constitutional requisitions.

The tribunal erected for the controversy between Connecticut and Pennsylvania was, I hear, to be opened to-day. The judges who compose it are, Mr. Whipple, of New Hampshire, Mr. Arnold, of Rhode Island, the Chief Justice and another gentleman of New Jersey, and Mr. C. Griffin, of Virginia. Mr. Rutledge, Mr. Jones, and General Nelson have declined the service. On the part of Pennsylvania, appear Mr. Wilson, Mr. Reed, Mr. Bradford, and Mr. Sergeant; Mr. Osborne assists in the capacity of Solicitor. On the part of Connecticut, are deputed Mr. Dyer, Mr. Root, and Dr. Samuel Johnson. The first and the last, I am told, are on the spot. It is supposed that the first object of Connecticut will be to adjourn the cause to a distant day, on the plea that many of their essential documents are beyond the Atlantic. In a national view, it is not, perhaps, advisable to invalidate the title of this State, however defective it may be, until a more important controversy is terminated. I will make the earliest communication of the issue of this trial. You will not forget a like promise which your letter makes, with respect to the case lately decided by the Court of Appeals.⁹⁶

TO EDMUND RANDOLPH.

Philadelphia, November 26, 1782.

DEAR SIR,

The Governor, in his letter to the Delegates of the eighth of the present month, after observing that the great scarcity of cash in Virginia will put it out of her power to comply with the demands of Congress, unless the Financier will accept tobacco in payment, desires us to sound the latter on that subject. We accordingly called on Mr. Morris, and, to our astonishment, were told that a proposition to this very effect, and to the amount of sixty thousand dollars, had been a considerable time lying before the Executive; that his agent had been instructed to allow the current price, and that he wished to have obtained the tobacco, because it could be immediately sent under a fortunate convoy to Holland, where its influence on public credit might be critical and important. Either, therefore, Mr. Morris must have been basely deceived by his agent, which can hardly be supposed, or the Governor must, in the first place, have rejected a fair offer, and in the next, imposed on us a very nugatory and awkward negotiation. As we concealed from the Superintendent that our inquiries originated with the Governor, he escaped the risk to which he had exposed his character with that Minister. I cannot pass over this circumstance without a lamentation on the obloquy which Virginia brings on herself by submitting to be eclipsed even by the feeble efforts of other States. The monthly lash of the Receiver's proclamation, which has roused so many other States into some degree of emulation,

has produced no effect on her. In our conversation with Mr. Morris, we were indeed told, that Mr. Webb had a prospect of between two and three thousand dollars. But, if any thing can add to the mortification which we feel at the receipt of nothing, it will be the receipt of so beggarly a sum. I confide, therefore, that there is, at least, enough pride in the State to prevent it.

We are likely to have on our hands near two hundred souls, carried from Kentucky about two years ago into captivity in Canada, and lately discharged by the Governor of that Province. A part of them are already arrived. They are all in great distress, and have been enabled to proceed thus far only by the benevolent provisions of the Commander-in-Chief. Humanity will not suffer us to leave them unassisted with the means of reaching their homes, or at least their State. But whence are the means to be derived? To draw bills for a sufficient sum without warrant, and even without a certainty that they *can* be honored, is a very painful experiment. To resort to the coffers of Congress, into which we shall probably be reminded that not a single shilling has been contributed by Virginia,—in favor of citizens, too, whose misfortunes will be traced up to a disrespect to the recommendations of Congress,—will be far from relieving our feelings. Having not yet conferred with my colleague on the subject, the result of these perplexities is uncertain.

For want of something more interesting, I will epitomise to you the proceedings of Congress on Friday last. I have already informed you, if my recollection does not fail me, that Congress, long

since, received a letter from Mr. Henry Laurens, informing them of his discharge from captivity, and of his having authorized an expectation in the British Ministry that Cornwallis should, in return, be discharged from his parole. Shortly after, a letter from Doctor Franklin acquainted Congress that, at the pressing instance of Mr. Laurens, in consideration of the power given him to exchange Burgoyne for him, and of the reasonableness of the thing, he had executed an instrument setting Cornwallis at full liberty until the pleasure of Congress should be known. These papers had been committed, and the Committee had reported a ratification of the instrument. After some debate a recommitment took place. In this state the business remained until the day above-mentioned, when, in order to satisfy some members who had called for a report, and to enable the Committee to adapt their report to the sense of Congress, a motion was made to instruct the Committee to report a proper act of ratification, &c. On this motion the merits of the case, which, as connected with our national character, may be deemed of some moment, fell under general discussion. In support of the motion it was argued, that, whenever a public minister entered into unauthorized engagements, the only alternative which presented itself to the sovereign was, either to ratify the engagements or to recall the Minister, unless, indeed, he should prefer both; that Congress, having even refused to permit the Minister in question (Mr. Laurens) to decline his appointment, had, therefore, no option left but to support him in what he had taken upon himself; that nothing could be more preposterous than to detain

him in so dignified and confidential a service, and, at the same time, to degrade him in the estimation both of his friends and enemies, by a public disavowal of his conduct; that it was particularly improper to send him into negotiations with the latter, under the impressions of supposed obligations to them; that a part of this reasoning was applicable to the part which Doctor Franklin, another Minister, had taken in the measure; that the Marquis de la Fayette, who, in consequence of the liberation of Cornwallis, had, with the approbation of the Ministers, undertaken an exchange of several of his family, would also participate in the mortification; that, finally, it was greatly overrating the importance of Cornwallis to sacrifice all these considerations to the policy or gratification of prolonging his captivity.

On the adverse side it was said, that the British Government having treated Mr. Laurens not as a prisoner of war, but as a traitor; having refused to exchange him for General Burgoyne when the offer was made; and having declared, by the British Commanders at New York, that he had been *freely* discharged, neither Mr. Laurens nor Congress could be bound, either in honor or justice, to render an equivalent, whilst policy strongly inculcated that so barbarous an instrument of war, and so odious an object to the people of the United States, should be held as long as possible in the chains of captivity; that, as the latest advices rendered it probable that Mr. Laurens was at this time on his way to America, the dignity of the commission for peace could not suffer from any mark of disapprobation which might

lie on his public conduct; that Doctor Franklin's character was guarded against injury in the case, by an express reservation in his act for the allowance or disapprobation of Congress; that the same might be said with respect to the Marquis de la Fayette; that the solemn declaration made by Congress against any partial exchanges, until a cartel should be established on national principles, would not admit even of a ratification of an exchange antecedent to that declaration.

These were the ostensible reasons for the opposite opinions on this question. We may well suppose, however, that, with some members at least, they were secretly corroborated—on one side by personal attachment to Mr. Laurens, and, on the other side by a dislike to his character, and a distrust excited by circumstances which I some time ago related to you. It is to be observed, at the same time, that several members who admitted the force of this last consideration were led, by the arguments first stated, to oppose the opinion of those who urged it. The question was at length suspended, at the request of some new members, who wished for further information. There is some reason to believe that it will be followed by an attempt to rescind the appointment.

The obstinacy of Rhode Island in rejecting the impost, is a subject of very general and pointed crimination, not only among the public creditors and their friends, who deem it equivalent to a denial of justice, but among the most enlightened patrons of the federal interests, who pronounced it a blow to our credit abroad, as well as our future credit at

home. And, in truth, who can combine this consideration with the paltry payments on the last requisition of Congress, and not shudder at the prospect? This obstinacy on the part of Rhode Island is supposed, on good grounds, to be much cherished by the limited manner in which the other States have acceded to the impost, from which she infers a latent repugnance to the measure. Would it not, then, be prudent in Virginia to revise and enlarge her act of compliance? If her example should prove less efficacious than might be wished, it would at least have a conciliating effect on other States, and gain her general credit. I see no possible objection, unless, indeed, she wishes the plan to be frustrated; in which case I can only give it as my firm opinion, that a thorough knowledge of public affairs would speedily reconcile her to it. If your own ideas correspond with those here expressed, and the temper of the Legislature be not unfavorable, you will give such suggestions as may be best adapted to the object, and make them the subject of a future paragraph.

'The copiousness of your favor of the sixteenth is a flattering presage of legislative communications. The reply of Mr. Jefferson to Mr. Marbois's queries is more accessible than you were aware. I have had a perusal of it, and have taken a few extracts. All, therefore, that will be necessary on your part will be to specify your commands. A transcript of the entire work, I presume, might be obtained, but it is too voluminous for any other pen than a hired one, to which, perhaps, objections might arise from delicacy. My extracts would have been fuller, had I

not taken it for granted that Mr. Jefferson had retained a copy, of which I might hereafter avail myself.

A letter from General Washington, of the nineteenth, informs Congress that the residue of the British fleet was about leaving New York; that twenty-five transports had arrived there from Quebec, prepared, before their sailing, for the reception of troops; and that he had received, through two channels, intelligence that troops were actually embarking, although he could not vouch for it. Another account had also arrived of the evacuation of Charleston, the foreign troops having gone to Halifax, and the British to the West Indies.

Colonel Hamilton took his seat in Congress yesterday as a delegate from the State of New York. Mr. Peters, Mr. Fitzsimmons, and General Mifflin, have attended some days as members from Pennsylvania.⁹⁷

TO EDMUND RANDOLPH.

Philadelphia, December 3, 1782.

DEAR SIR,

Applications from the States of New Hampshire and Massachusetts, concerning the old paper of which they hold a surplus, have called the attention of Congress once more to that subject. The Superintendent, on a reference to him, reported, in rigid adherence to his maxims of public faith, that credit should be given for all surpluses at the rate of one for forty. This proposition was readily negatived by Congress.

Whereupon, a motion was made by Mr. Osgood, that the States should be credited according to the current value at the time of redemption, which, with one of the letters from Massachusetts, was referred to a Grand Committee. The Committee are unanimous, that the burden of redeeming the old paper, as well as all the public burdens, ought to be equitably apportioned on the States. On the mode and the rate, a diversity of ideas prevail. One expedient suggested was, to call anew on the States to sink the money, and leave them to level its inequalities by negotiations among themselves. This met with very little countenance. Another was, to declare, that, as soon as the entire sum should be taken up by the States from their respective citizens, Congress would proceed to charge the several surpluses on the deficient States, at the rates equity might prescribe. The objections against this were, that it gave no immediate satisfaction to the complaining States, and would prolong the internal embarrassments of the States, which obstructed the requisitions of Congress. Lastly, it was proposed to authorize the Commissioners who are to traverse the country for another purpose, to take up the unredeemed bills, and form them into a part of the common debt by issuing to the individuals specie certificates at the rate of ————; and to apply the like rule to an adjustment of the disproportionate redemptions of the States. This expedient was, upon the whole, least disrelished by the Committee, and is now under their consideration. Its reasonableness and its fate, both, will depend much on the scale by which as well the redeemed as the outstanding bills are to be

valued. In all questions relative to this subject, the defect of information under which we lie makes it difficult for us to deduce the general interest from a just and fair comparison of particular interests. To supply in some degree this defect with regard to Virginia, I shall enclose to Mr. Ambler, for his answers, a number of queries, of which I herein add a copy for you. Some of the queries, indeed, have a greater reference to other subjects. If you can assist Mr. Ambler, or can enlarge the plan by other queries, I beg you to do it. If the sense of the leading members of the Assembly can be conveniently gathered, it might also be of use. A public consultation would violate the secrecy which is judged necessary to prevent a revival of speculation, and which led me to the use of the cypher on this occasion.

The Secretary of Foreign Affairs communicated to me, a few days ago, his determination speedily to resign his office. He asked me, in the course of conversation, whether I thought Mr. Jefferson would prefer the vacancy to his foreign appointment. I answered him in the negative. He then asked whether I supposed he would accept the commission of Jay at Madrid, in case the latter should prefer the Secretaryship of Foreign Affairs, and be appointed to it. I told him I could not answer that question, but doubted whether Congress would consent to part with the services of Mr. Jay as a negotiator of peace. I wish you would mention this conversation to ———, and acquaint me with the result. The want of a cypher with him will be an apology for omitting a direct communication. Through your

hands, also, it may be accompanied with explanations, if requisite. I leave it to yourself to decide how far it may be worth while to feel the pulse of our friend McClurg with respect to the vacancy in question.

Mr. Marbois apprized me, two evenings ago, that a French frigate will sail from this port in about three weeks, and that it is probable Count Rochambeau and the Chevalier Chastellux will take their passage in her, rather than in the frigate in the Chesapeake. If the river should not be threatened with ice, the time of her sailing may possibly be procrastinated. Should this obstruction not take place before the middle of January, there will be some chance of another frigate at this port. These circumstances may be very interesting to Mr. Jefferson, and I beg you to give him the earliest notice of them. If I could suppose that these and other considerations could leave any uncertainty as to his coming hither in the first instance, I would press that point anew, being more and more convinced of its utility, not to say necessity, and finding that it is generally viewed in the same light.

The merits of the controversy are likely to be brought under trial of the court at Trenton, the agents of Connecticut having been foiled in every plea for an adjournment. But I do not hear that any progress is made from which the issue can be presumed.

The Legislature of this State has just published for consideration a bill subjecting to the penalties of treason all attempts for erecting an independent State within its charter limits. This circumstance,

with some votes which have been lately taken in Congress with reference to Vermont, leave no doubt that the policy of Pennsylvania will in future be reversed.

Your favor of the twenty-second ultimo, with the cypher enclosed, came by yesterday's post, but very unluckily without having been sealed. This omission lessens much my confidence in the cypher, although it seems scarcely possible for any advantage to have been taken, unless the letter lay longer out of your hands before the mail was closed, than the interval between the arrival here and its coming into my hands; to say nothing of the honor of the post-offices. I inquired of Mr. Hazard, without mentioning the fact, how far the regulations of the mail admitted of such frauds. His answer, although not absolutely conclusive, favors the purity of the cypher; and I shall venture to make use of it unless you recommend the contrary, or until you transmit a new one.

The paragraph which touches the subject of your return does not altogether please me. I disrelish exceedingly any idea of your resignation. I cannot perceive the necessity of such a step in any view, and I see a manifest inexpediency in putting it out of your power, throughout the present critical year, to lend your aid in any emergency whatever. I hope you will soon relieve my anxiety on this subject.

On the article of news, I must again deal entirely in negatives; no arrivals from Europe, or the West Indies, affording any positive matter, and the domestic sources being equally deficient. There is, indeed,

a *report* that the October packet has arrived at New York, and a *rumor* that it authenticates the fall of Gibraltar.⁹⁸

TO EDMUND RANDOLPH.

Philadelphia, December 10, 1782.

DEAR SIR,

The Assembly of Pennsylvania have, with much difficulty, been prevailed on to desist from a plan in which a part of the requisition of Congress, allotted for other uses, was to be appropriated to their citizen creditors of the United States. The consequences apprehended by Congress from such an example, and the probability that the plan will be renewed at the next meeting, unless some intermediate provision be made for the credit of the United States, have produced two Resolutions,—first, an instruction to the Superintendent of Finance, to represent to the States the pernicious tendency of such unconstitutional appropriations; secondly, a deputation of Mr. Osgood, Mr. Mifflin, and Mr. Nash, to enforce on Rhode Island the impost of five per cent. The latter resolution, besides its tendency to the immediate end proposed by the first, was called for by the general pressure of our necessities. Our official letter encloses these resolutions to the Executive, and hazards some very free and alarming remarks for the Legislature, directly pointing to a fuller compliance with the impost. I have added a private letter to the Governor, which is still more explicit and pointed on the subject. In the present situation of our affairs, we did not think less would justify us to ourselves or to our constituents.⁹⁹

TO EDMUND RANDOLPH.

Philadelphia, December 17, 1782.

DEAR SIR,

Since the appointment of the deputation to Rhode Island, Congress have received a copy of the refusal of the Legislature of that State to concur in the impost, with the reasons on which the refusal is grounded.

The reasons assigned are,—first, the inequality of the tax, which will bear hardest on the commercial States, and peculiarly hard on Rhode Island, which is the most commercial; secondly, the inexpediency of admitting, to a collection within the State of so large a tax, an officer unknown to the Constitution, and unaccountable to the authority of the State; thirdly, the danger to public liberty from such an accession of weight to the Federal Government. I give this recital from memory, and, therefore, only as the substance of the objections. They are in the hands of a committee, who will report such observations as they may deem a fit answer to them. The deputation has not yet set out, but probably will in the course of this week.

Vermont has been again on the tapis. Its only advocates were the Delegates of Rhode Island, who are charged with interested views in the case, and those of New Jersey, who are fettered by instructions from their constituents. I understand that a Mr. Tichner, one of the agents, formerly here, is arrived from Vermont, probably in consequence of a signal given of the revolution which is taking place

in the Federal councils with respect to them. A little time will display his errand.

General Greene has referred to Congress a case which admonishes them of the necessity of a code for captures and recaptures on land as well as on water. A detachment of the Continental forces having retaken a number of horses which had been taken by the enemy from the citizens of South Carolina, the Executive authority of the State demanded a restitution, on the general principle that the original owners were entitled to all recaptured property. This demand was laid before a Council of Officers, which decided against its validity. The General has submitted the case to Congress for their final judgment. It appears, from a review of the proceedings of Congress, that a very defective provision only has been made for captures, and no provision at all for recaptures, on land. The opinion of the Council of War is conformable to the practice of the army in like cases, and to the rules observed by other nations. The demand of restitution in favor of the original proprietors is warranted by the principles of equity, and the spirit of the ordinance relating to captures on water. All that Congress can do in the case will be, to remit to the original owners the prize which has been adjudged to the United States. But some general provision for future cases will be necessary, in which it will be not easy to define the species of property of which restitution may be claimed. To extend the rule to every species of property would open a door to innumerable disputes and abuses. I observed, on this occasion, what had escaped me before, that if

Congress should establish a court for captures on land, such cases can come before it on *appeal*.

Letters from Franklin and Jay, dated late in September, show that a commission has been issued to Oswald, to treat with Commissioners of the Thirteen United States, by which some 275* obstacles were surmounted; and that Spain meditates an immoderate defalcation of our Western territory. All this intelligence, however, has come to us in obscure fragments. I commit it to you as to a member of Congress on whom secrecy is enjoined, and in this cypher as *certainly* unknown to all but official persons.

The enclosed Gazette will inform you of the good fortune of Captain Barry, of the Alliance frigate. It appears, from various letters from Europe, that the Jamaica fleet has suffered severely from privateers and the storm.

The Court at Trenton will finish their business this week, it is said. The Pennsylvanians allege that the cause is going hollow in their favor.

I have no letter from you by this post, which I impute to your visit to Williamsburg.¹⁰⁰

TO EDMUND RANDOLPH.

Philadelphia, December 24, 1782.

DEAR SIR,

Since my last, the Danae, a French frigate, has arrived from France, with money for the French army, and public despatches. A snow-storm drove her on shore in this Bay, where she was in danger

* The key to this cypher has not been discovered.

of following the fate of one of the last frigates from France. The accident, as it turned out, only cost her all her masts. The despatches for Congress are from Mr. Franklin, Mr. Jay, and the Marquis de la Fayette, and come down to the fourteenth of October. They advise that the first commission issued to Mr. Oswald empowered him to treat with certain colonies, &c., which, being objected to, another issued, explicitly empowering him to treat with commissioners from *the thirteen United States*. The latter, of which a copy was enclosed, and which will be transmitted to the Executives, is grounded on the Act of Parliament, but is to continue in force no longer than July, 1783. It is, no doubt, on the whole, a source of very soothing expectations; but if we view, on the one side, the instability and insidiousness of the British Cabinet, and, on the other, the complication of interests and pretensions among the Allies, prudence calls upon us to temper our expectations with much distrust.

Mr. Adams concluded his Treaty of Amity and Commerce on the seventh of October, and had in hand one and a half million of florins out of the five millions, for which subscriptions had been opened. As this, however, was the sum *subscribed* in June last, it is no certain evidence of any other progress than that of the *payments*.

There are accounts, but neither official nor certain, that Madras had been taken by the combined arms of France and Hyder Ally. Three-fifths of Constantinople had been reduced to ashes by incendiaries, inspired with the desperate purpose by the public distresses, and a blind revenge against the Vizier,

who was regarded as the cause of them. The havoc suffered by the French and Spaniards in the attempt to storm Gibraltar, before its relief, appears to have been dreadful indeed. The loss on the English side, which amounted to about five hundred, is a proof that the effort was a bloody one.

Mr. Livingston has been prevailed on to hold his office for this winter. The election of a successor was within a moment of being made, when the practicability of retaining his services was discovered. The gentlemen in nomination were General Schuyler and Mr. Clymer. Mr. Read had been nominated, but withdrawn.

The deputation for Rhode Island is still here. A report that Maryland is receding, with respect to the object of their mission—and information, conveyed in a letter from Mr. Pendleton to me, that Virginia, on hearing of the unanimous refusal of Rhode Island, had repealed her accession, by disarming them of their most pointed argument—had produced great hesitation. They wait at present only for intelligence with respect to Maryland and Virginia, which was expected by yesterday's post. But the post is not even yet come. The inferences which Rhode Island will probably draw from Oswald's commission are another source of apprehension. If justice and honor, however, preside in her councils, she will feel as much the obligation of providing for the discharge of past engagements as for those which may be necessary in future. Our debts, at this moment, liquidated and unliquidated, cannot, I conceive, be less than forty millions of dollars. The interest, therefore, alone, is a very serious object; and I am

persuaded that, unless it be raised by some plan which will operate at the same time, and in due proportion, throughout the Union, neither its amount nor punctuality can be confided in. Besides the other obvious causes, a jealousy is already perceived among some States that others will eventually elude their share of the burden. The interest on the sum borrowed by Mr. Adams is now running, and soon will, if a part hath not already, become due; nor is there any fund in contemplation for its payment but that of the impost.

The French army are embarking for the West Indies. Count Rochambeau says, that, in case the war should be renewed against us, they will instantly return. Great efforts will, I fancy, be made on that theatre, unless arrested by peace. I need not give other intimations of secrecy on these points than the nature of them, and the use of the cypher.

TO EDMUND RANDOLPH.

Philadelphia, December 30, 1782.

DEAR SIR,

Your favor of the thirteenth instant arrived a few minutes after I sealed my last. That of the twentieth came duly to hand yesterday. The sensations excited in Mr. Jones and myself by the repeal of the law in favor of the impost were such as you anticipated. Previously to the receipt of your information, a letter from Mr. Pendleton to me had suspended the progress of the Deputies to Rhode Island.

Yours put an entire stop to the mission, until the plan can be extended to the case of Virginia. The letter from the Governor, of the same date with your last, gives a hope that our representations may regain her support to the impost, without further steps from Congress. Your doubt as to her power of revoking her accession would, I think, have been better founded, if she had not been virtually absolved by the definitive rejection of Rhode Island; although that rejection ought perhaps have been previously authenticated to her. I beg you to be circumstantial on this subject, especially as to the parties and motives which led to the repeal, and may oppose a reconsideration.¹⁰¹

Mr. Jefferson arrived here on Friday last, and is industriously arming himself for the field of negotiation. The commission issued to Mr. Oswald impresses him with a hope that he may have nothing to do on his arrival but join in the celebrations of victory and peace. Congress, however, anxiously espouse the expediency of his hastening to his destination.

General McDougall, Colonel Ogden, and Colonel Brooks, arrived yesterday on a mission from the army to Congress. The representations with which they are charged have not yet been handed in, but I am told they breathe a proper spirit, and are full of good sense. I presume they will furnish new topics in favor of the impost, which alone promises a chance of establishing that credit by which the inadequacy of taxation can be supplied.

The French fleet and army sailed a few days ago from Boston to the West Indies. A storm happened

soon after their departure, from which it is feared they *may* have suffered.

The ship *South Carolina*, procured in Europe for the State after which she was named, was taken by three British ships, and carried into New York a few days ago. Besides the loss sustained by those interested immediately in her, her fitness for annoying our trade renders the capture a general misfortune.

The instructions referred to in your last favor, relative to a union of councils with our Ally, and to confiscated property, were not transmitted as you supposed. The first, I imagine, was intended to guard against any possibility of misconstruing a late incident.

I will comply with your desire as to the extract from Mr. Jefferson's observations as soon as possible, perhaps by the next post, but more probably by the succeeding one.

Mr. Ambler has not yet supplied me with answers to any of the queries. His apology is a satisfactory one, but I wish you to urge and assist his speedy compliance.

The lawyers, some of them at least, have, I hear, returned from Trenton, from which it is inferred that it only remains for the Court to frame and promulge its decree. My next will probably transmit the tenor of it. You have not, I hope, forgot your promise of the case agitated so much in Virginia. Mr. Pendleton's state of it has been received by Mr. Jones, and has increased my curiosity to see yours.¹⁰²

TO EDMUND RANDOLPH.

Philadelphia, January 7, 1783.

DEAR SIR,

Your favor of the twenty-seventh ultimo disappointed me by its silence as to the five per cent. The Governor's letter led us to hope that the subject would be resumed, and the arrival of yesterday's mail was awaited with a general anxiety on that account. Not a line, however, in any letter, public or private, touches on the subject. My last will, I hope, have led to some explanations on it. The official letter to the Governor will enclose a copy of the answer to the objections of Rhode Island, which was to have co-operated with the deputation to that State, if Virginia had not frustrated the whole plan by her defection.

The deputation from the army, which arrived here a few days ago, have laid their grievances before Congress. They consist of sundry articles, the capital of which are, a defect of an immediate payment, and of satisfactory provision for completing the work hereafter. How either of those objects can be accomplished, and what will be the consequence of failure, I must leave to your own surmises. I wish the disquietude excited by the prospect, was the exclusive portion of those who impede the measures calculated for redressing complaints against the justice and gratitude of the public.

The Resolution of the House of Delegates against restitution of confiscated effects is subject to the remark you make. The preliminary requisition of an acknowledgment of our independence, in the *most*

ample manner, seems to be still more incautious, since it disaccords with the Treaty of Alliance which admits the sufficiency of a tacit acknowledgment.

TO EDMUND RANDOLPH.

Philadelphia, January 14, 1783.

DEAR SIR,

The deputies from the army are still here. The explanations which they have given to a committee on the topics of the memorial are of the most serious nature. I wish they could with propriety be promulged throughout the United States. They would, I am sure, at least put to shame all those who have labored to throw a fallacious gloss over our public affairs, and counteracted the measures necessary to the real prosperity of them.

The deliberations of Congress have been turned pretty much of late on the valuation of lands prescribed by the Articles of Confederation. The difficulties which attend that rule of apportionment seem, on near inspection, to be in a manner insuperable. The work is too vast to be executed without the intervention of the several States, and if their intervention be employed, all confidence in an impartial execution is at an end.

TO EDMUND RANDOLPH.

Philadelphia, January 28, 1783.

DEAR SIR,

The revival of Committees would be a ticklish experiment, and, I conceive, not admissible, but in the last necessity. Would not the circulation of a free and well-informed Gazette sufficiently counteract the malignant rumors which require some antidote? The preparation and circulation of such a paper would be a much more easy and economical task than the services which the other expedient would impose, if extended throughout the country; besides that it would produce other useful effects, and would be liable to no objections. The state of darkness in which the people are left in Virginia by the want of a diffusion of intelligence is, I find, a subject of complaint.

Yesterday was employed in agitating the expediency of a proposition declaring it to be the "opinion of Congress, that the establishment of *general funds* is essential for doing complete justice to the creditors of the United States, for restoring public credit, and for providing for the exigencies of the war." The subject was brought on by the memorial from the army. Such of the Virginia Delegates as concur in the opinion are put in a delicate situation, by the preamble to the late repeal of the impost by Virginia. Persuaded as I am, however, of the truth of the proposition, and believing as I do, that, with the same knowledge of facts which my station commands, my constituents would never have passed that act, and would now rescind it, my assent will

be hazarded. For many reasons, which I have not time to explain in cypher, it is my decided opinion that, unless such funds be established, the foundations of our independence will be laid in injustice and dishonor, and that the advantages of the Revolution dependent on the Federal compact will be of short duration.

We yesterday laid before Congress sundry papers transmitted by the Governor. The light in which the protest of inability to pay the annual requisition, compared with the repeal of the impost law, placed Virginia, did not, you may be sure, escape observation.

Pennsylvania continues to be visited by the consequences of her patronage of Vermont. A petition from the inhabitants of the territory, lately in dispute between her and Virginia, was yesterday read in Congress, complaining, among other grievances, of the interdict against even consultations on the subject of a new State within the limits of the former, and praying for the sanction of Congress to their independence, and for an admission into the Union.¹⁰³

TO EDMUND RANDOLPH.

Philadelphia, February 4, 1783.

DEAR SIR,

The subject (revenue) which my last left under the consideration of Congress has employed the chief part of the week. The generality of the members are convinced of the necessity of a conti-

mental revenue, for an honorable discharge of the continental engagements, and for making future provision for the war. The extent of the plan, however, compared with the prepossessions of their constituents, produces despondence and timidity. It appears that the *annual* revenue which prudence calls for, for the object above-mentioned, amounts to the enormous sum of three millions of dollars. You will ask, perhaps, from what sources this revenue could be drawn, if the States were willing to establish it. Congress have done nothing, as yet, from which the answer they would dictate can be inferred. By individuals on the floor, the impost, a land-tax, poll-tax, a tax on salt, &c., have been suggested, and some computation of their productiveness has made them competent to the object. The valuation of the land, according to the Articles of Confederation, is also before Congress, and, by some, considered as a great step towards obtaining the necessary revenue. If you ask, by what operation? I shall be more incapable of answering it than the preceding question.

The repeal of the impost by Virginia is still unriddled. Dr. Lee says that he was the *only* man who opposed the torrent, from which it is the more suspected that there has been some manœuvring in the transaction. Mr. Jones quotes the instance of your last election to Congress.

TO EDMUND RANDOLPH.

Philadelphia, February 11, 1783.

DEAR SIR,

The valuation of the lands of the United States, as directed by the Articles of Union, has employed and puzzled Congress for the past week; and, after all the projects and discussions which have taken place, we seem only to have gone round in a circle to the point at which we set out. The only point on which Congress are generally agreed is, that something ought to be attempted; but what that something ought to be, is a theorem not solved alike by scarcely any two members; and yet a solution of it seems to be made an indispensable preliminary to other essays for the public relief. The deputation from the army is waiting the upshot of all these delays and dilemmas.

When I mentioned to you the subject of your conversation with Dr. McClurg, I ought to have added, that one reason which influenced the resignation of Mr. Livingston, was an expense experienced of three thousand dollars beyond the salary. I wish this circumstance not to be withheld, as it must be material in the case, and it would be a real affliction to me to be accessory to a disappointment. For the same reason it is incumbent on me to observe, that I hold it to be very uncertain whether the place in question will be within the option of our friend, as I hold, indeed, the continuance of the place itself to be a little precarious.

This city is full of reports concerning peace, but they all come by the way of the West Indies, and

are the more uncertain, as they come, too, through mercantile channels. The fall of goods which is taking place augurs well, however.

TO THOMAS JEFFERSON.

Philadelphia, February 11, 1783.

DEAR SIR,

The time of Congress, since you left us, has been almost exclusively spent on projects for a valuation of the land, as the Federal Articles require; and yet I do not find that we have got an inch forward towards the object. The mode of referring the task to the States, which had, at first, the warmest and most numerous support, seems to be, in a manner, abandoned; and nothing determinate is yet offered on the mode of effecting it without their intervention. The greatest misfortune, perhaps, attending the case is, that a plan of some kind is made an indispensable preliminary to any other essay for the public relief. I much question whether a sufficient number of States will be found in favor of any plan that can be devised; as I am sure that, in the present temper of Congress, a sufficient number cannot, who will agree to tell their constituents that the law of the Confederation cannot be executed, and to propose an amendment of it.

TO EDMUND RANDOLPH.

Philadelphia, February 13, 1783.

DEAR SIR,

I heartily congratulate you on the dawn of peace, presented in the enclosed paper. Apprehending that the commercial sagacity of this and intervening places may seize the crisis to speculate on the staple of Virginia, we have judged it prudent to despatch a messenger, with the intelligence to the Government. Private letters will also scatter it along the road.

I will not damp your joy by dwelling on prospects which have that tendency; but it will not be improper to hint to you, that there is much reason to believe that the cloud which has been some time lowering on the North river, will not be dispelled by the rays of peace. The opinion seems to be well founded, that the arms which have secured the liberties of their country will not be laid down, until justice is secured to those who have wielded them; and that dangerous convulsions would be hazarded by orders for that purpose. I have not time to add more at present.

TO THOMAS JEFFERSON.

Philadelphia, February 13, 1783.

DEAR SIR,

The Chevalier de la Luzerne, having just given me notice that he shall send an express to the Romulus in half an hour, I seize the opportunity of enclosing

a copy of the British King's speech, which presages a speedy establishment of peace. What effect this circumstance may have on your mission is, at present, uncertain. For myself, I cannot think that any thing short of a final and authentic ratification ought to be listened to in that view. But I am told that it is the opinion of Mr. Morris, that no vessel will sail from any American port whilst the critical uncertainty continues. Whether any and what changes may be produced in the orders to the Romulus, will be known from the commander.

TO THOMAS JEFFERSON.

Philadelphia, February 15, 1783.

DEAR SIR,

The Committee, to whom was referred your letter to Secretary Livingston, reported to Congress yesterday that they had conferred with Mr. Morris, who was of opinion that no vessel would sail from American ports after the arrival of the British King's speech, until the suspense produced by it should be removed; and that if your immediate embarkation were still wished by Congress, it would be proper to obtain for that purpose a frigate from the Chevalier de la Luzerne. He informed the Committee that there was a fit vessel on this river, which would have sailed for France, but for the prospect of peace afforded by the speech; and which, I suppose, will still proceed if that prospect should fail. The effect of this information to Congress, and of a request from the Committee to be instructed on the subject,

was a resolution directing the Secretary of Foreign Affairs to acquaint you, that it was the pleasure of Congress, considering the present situation of things, that you should suspend your voyage until their further instruction. This resolution will, I suppose, be forwarded by the post which conveys this. I do not undertake to give any advice as to the steps which may now be proper for you, but I indulge with much pleasure the hope that a return to this place, for the present, may be the result of your own deliberations.

TO EDMUND RANDOLPH.

Philadelphia, February 18, 1783.

DEAR SIR,

I am glad to find, by your favor of the seventh instant, that the necessity of a re-adoption of the impost presses so strongly on your mind. To give it a fair experiment with the ensuing Assembly, it will be indispensable that you should be its advocate on the floor. Those who effected its repeal will never, inactively, suffer it to be reinstated in our code. Mercer, from what motive God knows, says that he will crawl to Richmond on his bare knees to prevent it. Having already changed his opinion on the subject, he fears, perhaps, the charge of unsteadiness. Perhaps, too, his zeal against a general revenue may be cooled by the accomplishment in Congress of a plan for a valuation of land, on the ruins of which he, among others, suspected the former was to be established. This plan passed Congress yesterday. It proposes that the States shall return to Congress,

before January next, their respective quantities of land, the number of houses thereon, distinguishing dwelling-houses from others, and the number of inhabitants, distinguishing whites from blacks. These data are to be referred to a Grand Committee, by whom a report, in which nine voices must unite, is to be made to Congress; which report is to settle the proportions of each State, to be ratified or rejected by Congress without alteration. Who could have supposed that such a measure could ever have been the offspring of a zealous and scrupulous respect for the Confederation?

The residue of my extracts from Mr. Jefferson's remarks are, I am persuaded, less interesting to your present purposes than you infer from the specimen you have received. The labor of gratifying you, however, I can assure you, will bear no proportion to the pleasure of it, and you may shortly calculate on being furnished with it. I understand, from Mr. Jefferson, that he has materials for enlarging the whole plan. My expectation of getting from him, some day or other, a full copy, reduced my extract to parts of immediate use to me, or such as consisted of reflections, not of facts, which might not be obtained otherwise.

To the speech of the British King, of which I sent you a copy by the express, I now add, in the enclosed Gazette, a further token of approaching peace. It seems a little mysterious, nevertheless, that Mr. Secretary Townsend should speak of the preliminaries with the United States as *signed*, and those with France as *to be signed*. The former being only provisional, may in some measure explain it,

but in that case it would seem to be without real use.

In consequence of the prospect of peace, the departure of Mr. Jefferson has been suspended until the further orders of Congress. I had a letter from him yesterday, but he had not then been apprized of this resolution. He had seen the speech, and had, I doubt not, anticipated it. What course he will take during the suspense, I cannot say. My wish is that he may return to this place, where at least he will be able to pass away the time with less tedium.¹⁰⁴

TO THOMAS JEFFERSON.

Philadelphia, February 18, 1783.

DEAR SIR,

The last paper from New York, as the enclosed will show you, has brought us another token of the approach of peace. It is somewhat mysterious, nevertheless, that the preliminaries with America should be represented by Secretary Townsend as *actually signed*, and those with France as *to be signed*; as also that the signing of the latter would constitute a general peace. I have never been without my apprehensions that some tricks would be tried by the British Court, notwithstanding their exterior fairness of late; and these apprehensions have been rendered much more serious, by the tenor of some letters which you have seen, and particularly by the intimation of the Minister of France to Mr. Livingston. These considerations have made me peculiarly solicitous that your mission should be pursued, as long as a possibility remained of your sharing in the object of it.

TO EDMUND RANDOLPH.

Philadelphia, February 25, 1783.

DEAR SIR,

Congress are still engaged on the subject of providing adequate revenues for the public debt, particularly that due to the army. The recommendation of the impost will be renewed, with perhaps some little variation, to which will be superadded, probably, a duty on a few enumerated articles. Mr. Mercer, although he continues to be adverse to the measure, declares now that he will not carry his opposition out of Congress. Whether any other general revenues will be recommended is very uncertain. A poll-tax seems to be the only one sufficiently simple and equal for the purpose; and, besides other objections to which even that is liable, the Constitution of Maryland, which interdicts such a tax, is an insuperable bar. The plan talked of by some, for supplying the deficiency, is to call on the States to provide each its proportion of a permanent revenue within itself, and to appropriate it to the continental debt. The objections against this plan are, that, as the execution of it will depend on a unanimous and continued punctuality in the thirteen States, it is a precarious basis for public credit; that this precariousness will be increased by mutual jealousies among the States; that others may be sparing themselves exertions which they are submitting to; and that these jealousies will be still more increased by the mutual opinion which prevails, that they are comparatively in advance to the United States—an opinion which cannot be corrected without closing

the accounts between all of them and the United States,—pre-requisites to which are, a valuation of the land, and a final discrimination of such parts of the separate expenditures of the States as ought to be transferred to the common mass, from such parts as ought, in justice, to fall on the particular States themselves. Some States, also, will contend, and it would seem neither against the principles of justice nor the spirit of the Confederation, for a retrospective abatement of their share of the past debt, according to their respective disabilities, from year to year, throughout the war. What will be the end of this complication of embarrassments, time only can disclose. But a greater embarrassment than any is still behind. The discontents and designs of the army are every day taking a more solemn form. It is now whispered, that they have not only resolved not to lay down their arms till justice shall be done them, but that, to prevent surprise, a public declaration will be made to that effect. It is added, and I fear with too much certainty, that the influence of General Washington is rapidly decreasing in the army, insomuch that it is even in contemplation to substitute some less scrupulous guardian of their interests.

There are a variety of rumors concerning peace, but none of them of sufficient authority to be particularized. The speech of the King of Great Britain to his Parliament, and the letter to the Lord Mayor of London from Secretary Townsend, as it is stated, are the only respectable evidence yet received. There are also rumors on the adverse side, which have still less the complexion of authenticity.

A quantity of clothing, on its passage through this State to the British prisoners of war, under a passport of General Washington, was lately seized and condemned, under a law of this State against the importation of British goods. After several fruitless experiments to prevail on the seizors to relinquish their appeal to the law, the Legislature have, I am told, cut the business short by declaring the law, as far as it interfered with the authority of the passport, to be unconstitutional and void, *ab initio*.

You will suffer me to renew my exhortations to an exchange of your office under the State for a seat in the Legislature. It depends much, in my opinion, on the measures which may be pursued by Congress and the several States within the ensuing period of six months, whether prosperity and tranquillity, or confusion and disunion, are to be the fruits of the Revolution. The seeds of the latter are so thickly sown, that nothing but the most enlightened and liberal policy will be able to stifle them. The Eastern States, particularly Massachusetts, conceive that, compared with the Southern, they are greatly in advance in the general account. A respectable Delegate from Massachusetts, a few days ago, being a little chafed by some expressions of Messrs. Lee and Mercer unfavorable to loan-office creditors, said, that if justice was not to be obtained through the general Confederacy, the sooner it was known the better, that some States might be forming other confederacies adequate to the purpose; adding, that some had suffered immensely from the want of a proportional compliance with demands for men and money by others. However erroneous these ideas may be,

do they not merit serious attention? Unless some amicable and adequate arrangements be speedily taken for adjusting all the subsisting accounts, and discharging the public engagements, a dissolution of the Union will be inevitable. Will not, in that event, the Southern States, which, at sea, will be opulent and weak, be an easy prey to the Eastern, which will be powerful and rapacious; and, particularly, if supposed claims of justice are on the side of the latter, will there not be a ready pretext for reprisals? The consequence of such a situation would probably be, that alliances would be sought, first by the weaker, and then by the stronger party, and this country be made subject to the wars and politics of Europe.¹⁰⁵

TO EDMUND RANDOLPH.

Philadelphia, March 4, 1783.

DEAR SIR,

The past week has not added a syllable of evidence to our preceding calculations of peace. The inferences from the suspense are various as the fancies and interests of those who make them. Your letter by last post, which came to hand the day after the usual time, adopts, I conceive, the most rational solution—namely, the difficulties and delays incident to so complicated a negotiation.

Provision for the public debt continues the wearisome topic of congressional discussion. Mercer declared that, although he deems the opponents of a general revenue right in principle, yet, as they had

no plan, and it was essential that something should be done, he should strike in with the other side.

A letter from General Knox is in town, which, I understand, places the temper and affairs of the army in a less alarming view than some preceding accounts.

The resignation of the Superintendent of Finance, with his motives, are contained in the paper enclosed. It is, as you may well suppose, a subject of general and anxious conversation. Its effect on public credit will be fully anticipated by your knowledge of our affairs. Yesterday's mail brought me no letter from you.¹⁰⁶

TO EDMUND RANDOLPH.

Philadelphia, March 11, 1783.

DEAR SIR,

Another week has passed without affording the least relief from our suspense as to the progress of peace. At New York they are so much in the dark that their curiosity has recourse to the gleanings of the Philadelphia gazettes. The length of the negotiation may be explained, but the delay of all parties to notify its progress is really astonishing. Our last official information is nearly five months old, and that derived from the Royal speech upwards of three months.

The peremptory style and publication of Mr. Morris's letters have given offence to many without, and to some within, Congress. His enemies, of both

descriptions, are industrious in displaying their impropriety. I wish they had less handle for the purpose.

The plan before Congress for the arrangement of our affairs, is to ask from the States a power to levy, for a term not exceeding twenty-five years, the five per cent. impost, with an additional impost on salt, wine, spirituous liquors, sugar and teas; to recommend to them to establish and appropriate permanent revenues for a like term for the deficiency; the proceeds to be carried to their credit; the whole to be collected by persons amenable to Congress, but appointed by the States; to complete the territorial cessions; to enable Congress to make abatements in favor of suffering States; Congress, on their part, declaring that all reasonable military expenses separately incurred by the States without their sanction, either by sea or land, shall be part of the common mass; and proposing to the States a substitution of numbers in place of a valuation of land; — slaves to be equal to one freeman. The fate of this plan in Congress is uncertain, and still more so among the States. It makes a decent provision for the public debts, and seems to comprehend the most dangerous sources of future contests among ourselves. If the substance of it is rejected, and nothing better introduced in its place, I shall consider it as a melancholy proof that narrow and local views prevail over that liberal policy and those mutual concessions which our future tranquillity and present reputation call for.

Mr. Jefferson is still here, agitated, as you may suppose, with the suspense in which he is kept. He is anxious as myself for your going into the Legislature. Let me know your final determination on this point.

TO EDMUND RANDOLPH.

Philadelphia, March 12, 1783.

DEAR SIR,

Captain Barney, commanding the American packet boat which has been long expected with official intelligence from our Ministers in Europe, arrived here this morning. He brings a supply of money, the sum of which I cannot as yet specify, and comes under a passport from the King of Great Britain. The despatches from our Ministers are dated the fifth, fourteenth, and twenty-fourth of December. Those of the fourteenth enclose a copy of the Preliminary Articles, provisionally signed between the American and British Plenipotentiaries. The tenor of them is, that the United States shall be acknowledged, and treated with as free, sovereign, and independent; that our boundaries shall begin at the mouth of the St. Croix, run thence to the ridge dividing the waters of the Atlantic from those of St. Laurence; thence, to the head of Connecticut river; thence, down to forty-five degrees North latitude; thence, to Cadaraqui; thence, through the middle of Lakes Ontario, Erie, Huron, and Superior, to Long Lake, to the Lake of the Woods; and thence, due West to the Mississippi; thence, down the middle of the river to latitude thirty-one; thence, to Apalachicola, to Flint river, to St. Marys, and down the same to the Atlantic; that the fisheries shall be exercised nearly as formerly; that Congress shall earnestly recommend to the States a restitution of confiscated property, a permission to the refugees to come and remain for one year within the

States to solicit restitution; and that in the most obnoxious cases restitution may be demanded of purchasers on reimbursing them the price of the property; that debts contracted prior to 1775 shall be mutually paid according to sterling value; that all prisoners shall be mutually set at liberty, troops withdrawn, and all records and papers restored; that the navigation of the Mississippi, from the source to the mouth, shall be mutually free for the subjects of Great Britain and the citizens of America. A proposition, comprehending the West Indies, was offered on the subject of commerce, but not admitted on the part of Great Britain.

In the course of the negotiation, Great Britain contended for not only the limits marked out in the Quebec act, but all ungranted soil, for a contraction of the fisheries, and for absolute stipulations in favor of the loyalists.

The despatches of the fourteenth speak also of the principal preliminaries between France and Great Britain being settled; but of little progress being made in those between Holland and Spain, and the latter; and of none between Spain and the United States.

A letter, of the twenty-fourth of December, from Dr. Franklin, varies the scene somewhat. It says, that uncertainties were arising from the unsettled state of minds in England; and encloses a letter from the Count de Vergennes, observing, that difficulties had arisen from the very facilities yielded on the part of France; and concluding with these words, as well as I can recollect, "*Je ne désespère pas; J'espère plutôt; mais tout est incertain.*"

Franklin's correspondence on this occasion denotes a vigor of intellect, which is astonishing at his age. A letter to the British Minister, on the case of the Tories in particular, is remarkable for strength of reasoning, of sentiment, and of expression. He concludes his letter to Congress with observing, that he is now entering on his seventy-eighth year, fifty of which have been spent in the public service; and that having lived to see, like Simeon of old, the salvation of his country, his prayer is that he may be permitted to retire from public life. Mr. Adams has also transmitted his resignation.

The arrival of this intelligence will probably procure from Congress some final decision with respect to Mr. Jefferson.

Having given you all the facts which hurry would admit, I leave you to your own conclusion as to the object of them.¹⁰⁷

TO EDMUND RANDOLPH.

Philadelphia, March 18, 1783.

DEAR SIR,

My letter, by express, communicated to you the outlines of the intelligence brought by Captain Barney from our Ministers in Europe. The tediousness of the cypher does not permit me now to enter into detail. I can only add, that, notwithstanding the flattering aspect of the Preliminary Articles, there are various circumstances which check our confidence in them, as there are some which will detract from our joy, if they should be finally established.

To explain this, it must suffice to observe, that the latest letters from our Ministers express the greatest jealousy of Great Britain; and, secondly, that the situation of France between the interfering claims of Spain and the United States, to which may perhaps be added some particular views of her own, having carried her into a discountenance of our claims, the suspicions of our Ministers on that side gave an opportunity to British address to decoy them into a degree of confidence which seems to leave their own reputations, as well as the safety of their country, at the mercy of Shelburne. In this business, Jay has taken the lead, and proceeded to a length of which you can form little idea. Adams has followed with cordiality. Franklin has been dragged into it. Laurens, in his separate letter, professes a violent suspicion of Great Britain, and good will and confidence toward France. The dilemma to which Congress are reduced is infinitely perplexing. If they abet the proceedings of their Ministers, all confidence with France is at an end, which, in the event of a renewal of the war, must be as dreadful as in that of peace it may be dishonorable. If they disavow the conduct of their Ministers, by their usual frankness of communication, the most serious inconveniences also present themselves. The torment of this dilemma cannot be justly conveyed without a fuller recital of facts than is permitted. I wish you not to hazard even an interlined decyphermment of those which I have deposited in your confidence.

Despatches were yesterday received from General Washington, which have revived and increased our apprehensions on that side. There seems to be

reason to suspect that the intrigues of the civil creditors fan the discontents of the army. The conduct of Washington does equal honor to his prudence and to his virtue.

The state of our foreign affairs and of the army, combined with the difficulty and uncertainty of providing for justice and for our finances, and with the approaching exit of Morris, give a peculiar solemnity to the present moment. God send us a speedy and honorable deliverance from every danger. Pray hasten the new cypher which you have promised.¹⁰⁸

TO EDMUND RANDOLPH.

Philadelphia, March 25, 1783.

DEAR SIR,

Your favor of the fifteenth instant was duly received yesterday. Mine, by yesterday's express, will have notified the consummation of our wishes by the settlement of the preliminaries of a general peace on the twentieth of January. The enclosed gazette will add all the circumstances under which the happy event is brought to us; happy it may indeed be called, whether we consider the immediate blessings which it confers, or the cruel distresses and embarrassments from which it saves us. The pecuniary aid of France, for the year 1783, had been unalterably limited to six millions of livres. The greatest part of this sum had been anticipated, and how our army could have been kept together for three months is utterly beyond my solution. As it is, God only knows how the plans in agitation for

satisfying their just expectations will terminate; or what will be the issue in case they should be abortive. The effects of the anonymous addresses mentioned in my last, on the irritable state of their minds, have been effectually obviated by the seasonable and judicious steps taken by the Commander-in-Chief. The manner, however, in which he found it necessary, and indeed felt it to be his duty, to espouse their interest, enforces in the highest degree the establishment of adequate and certain revenues. The provision reported by a committee on this subject, and of which I sketched you the import, is still before Congress. The past deliberations upon it do not with certainty prognosticate its fate. I fear it calls for more liberality, and greater mutual confidence, than will be found in the American councils.

TO EDMUND RANDOLPH.

Philadelphia, April 1, 1783.

DEAR SIR,

Your favor of the twenty-second ultimo verifies my fears that some disappointment would defeat your plan of going into the Legislature. I regret it the more, as every day teaches me more and more the necessity of such measures as I know you would have patronized, and as are losing ground so fast in the temper of the States as to require every possible support. Unless some speedy and adequate provision be made, beyond that of the Confederation, the most dismal alternative stares me in the face. And yesterday's post brought us information that a

bill repealing the impost had passed the Lower House of Massachusetts; and one of a like import had made equal progress in the Legislature of South Carolina. 'These defections are alarming; but if a few enlightened and disinterested members would step forward in each Legislature to advocate for the necessary plans, I see with so much force the considerations that might be urged, that my hopes would still prevail. If advantage should be taken of popular prepossessions on one side, without counter-efforts, there is, to be sure, room for nothing but despair.

The extract from ———'s letter, recited in yours, astonishes me more than it would do you, because I must be more sensible of its contrast to truth. High as my opinion of the object * of it was, the judgment, acuteness, and patriotism displayed in the last despatches from him have really enhanced it. So far are they in particular from studiously leaving us in the dark, that some of them are of as late date as any, if not later than those from several, and perhaps as voluminous as all the rest put together.

The zeal of Congress to hasten the effect of the general preliminaries led them (precipitately, as I conceive) to authorize the Secretary of Foreign Affairs to notify, to Sir Guy Carleton and Admiral Digby, the intelligence received by the French cutter on that subject, with their recal of American cruizers, in order that correspondent measures might be taken at New York. 'The answers from these Commanders were addressed to Robert R. Livings-

* Franklin.

ton, Esquire, &c. &c. &c., and imported that they could not suspend hostilities at sea without proper authority from their Sovereign; but as Congress placed full reliance on the authenticity of the intelligence, they supposed no objection could lie on their part against releasing all prisoners, &c. A letter from Digby to the French Minister is, I am told, remarkably surly and indecent, even for a British Admiral. We have received no official report of the signing of the general preliminaries, nor any further particulars relative to them. Your surmise as to the dangerous phraseology which may be used in designating our limits may be realized, if our Ministers are not cautious, or should yield to improper considerations. But I trust that no such defaults will happen on that side: and that even if they should, the language used by Congress in all their own acts on that head will overpower any arguments that may be drawn from acts of their Ministers.¹⁰⁹

TO EDMUND RANDOLPH.

Philadelphia, April 8, 1783.

DEAR SIR,

Your favor of the twenty-ninth ultimo was duly received yesterday. Your apprehensions from the article in favor of British creditors correspond with those entertained by all whose remarks I have heard upon it. My hope is, that in the definitive treaty the danger may be removed, by a suspension of their demands for a reasonable term after peace.

The publication of Mr. Morris's letters was neither previously assented to nor known by Congress. Whether it was the act of Mr. Morris himself is even unknown to them. After the injunction of secrecy was taken off, the curiosity of any individual, or the interest of the printer, might obtain copies for the press.

The imperfect information brought by the French cutter is all that we have yet received relative to peace. It is reported from New York, that similar intelligence had been brought thither by a vessel from Lisbon. Hostilities, however, continue to devour our commerce.

The Report on Revenue, of which I gave you the outlines, is still in an unfinished state; but in a way, I flatter myself, of being ultimately and substantially adopted. The admission into the common mass, of all expenses of the war not authorized by Congress, is the remaining article of difficulty. Even this, however, under some qualifications, is so respectably patronized, and so intimately linked with the article concerning the back lands, that I do not despair altogether of seeing that also finally comprehended. A change of the valuation of lands for the number of inhabitants, deducting two-fifths of the slaves, has received a tacit sanction, and, unless hereafter expunged, will go forth in the general recommendation, as material to future harmony and justice among the members of the Confederacy. The deduction of two-fifths was a compromise between the wide opinions and demands of the Southern and other States.

A letter was received yesterday from General

Washington, in answer to a notification from the President, of the signing of the general preliminaries on the twentieth of January, expressing the joy of the army at the glorious event, and the satisfaction they have received from the act of Congress commuting the half-pay, &c.

The mission of Mr. Jefferson has been entirely superseded by the last advices. He will set out in a few days for Virginia, and means to pass through Richmond. To his information I refer for details which my late correspondence may have omitted. As his services are not required, at least for the present, in Europe, it is to be most devoutly wished that they could be engaged, at the present crisis, at home.¹¹⁰

TO EDMUND RANDOLPH.

Philadelphia, April 10, 1783.

DEAR SIR,

The important contents of the enclosed paper * were brought hither yesterday by a British officer sent for that purpose by Sir Guy Carleton. To-day Congress received letters from Dr. Franklin and Mr. Adams, enclosing a declaration entered into by them and the British Plenipotentiary, by which the epochs at which hostilities are to cease between France and Great Britain are adopted between the latter and America. A great diversity of opinion prevails as to the time at which they were to cease on this coast. The merchants and the lawyers are most affected by the question.¹¹¹

* British Proclamation of the cessation of arms.

TO EDMUND RANDOLPH.

Philadelphia, April 15, 1783.

DEAR SIR,

My letter, by a private hand who left this place a few days ago, together with late public letters, will have fully apprised you of the decisive events which have taken place in favor of peace. The paper enclosed will amuse you with the bickerings in the British Parliament on that subject.

General Carleton is very importunate for an immediate execution of the provisional articles, on the part of Congress, in the points of liberating the prisoners, and recommending restitution to the loyalists. On his part, he has set the example on the first point, but says nothing of executing the other important conditions which are in our favor. This proposition has led Congress into a critical discussion of the import of the provisional articles, in which the opinions are almost as numerous as the articles themselves. Some think that the instrument was converted by the signature of preliminary articles between France and Great Britain into the Treaty of Peace, of which a ratification in America is alluded to in the sixth article. Others think that it was conditioned no otherwise, on terms of peace between these powers, than that such an agreement rendered it a lawful and necessary foundation for a treaty of peace between the United States and Great Britain. Some, again, suppose that the provisional articles need no ratification from Congress, but that they ought to wait for the treaty to be

grounded on them. Others suppose that a ratification is essential, or at least proper. The latter description again are divided: some proposing to ratify them as articles, still contingent; others to ratify them as having taken effect in consequence of the preliminary articles between Great Britain and France. This variety and contrariety of interpretation arises, in a great measure, from the obscurity, and even contrariety, of the articles themselves.

TO EDMUND RANDOLPH.

Philadelphia, April 22, 1783.

DEAR SIR,

I just understand that a frigate from France is at Chester, but what intelligence she brings, and particularly whether she brings a definitive peace, is unknown. Several interesting questions are raised on the Preliminary Treaty. First, whether laws prohibiting British commerce, and which were to be in force during the war, are repealed or not? Another, of a similar nature, is, whether the enlistments for the war are to be terminated by the latter or former treaty? Half the army under Washington is computed to be interested in this question.

The report for establishing a revenue, &c., passed Congress on Saturday. It has been defalcated of several clauses which were material, and which would have touched, in particular, the supposed interest of Virginia. Mr. Jefferson carried with him a copy of the plan as originally reported, and as it stood when he left us. It has undergone no material variation from the latter stage of it.¹¹²

TO THOMAS JEFFERSON.

Philadelphia, April 22, 1783.

DEAR SIR,

The report on funds, &c., passed Congress on Saturday last, with the dissent of Rhode Island, and the division of New York only. The latter vote was lost by the rigid adherence of Mr. Hamilton to a plan which he supposed more perfect. The clause providing for unauthorized expenditures could not be reinstated; and, consequently, no attempt was made to link all the parts of the acts inseparably together. As it now stands, it has, I fear, no bait for Virginia, which is not particularly interested either in the object or the mode of the revenues recommended, nor in the territorial cessions, nor in the change of the constitutional rule of dividing the public burdens. A respect for justice, good faith, and national honor, is the only consideration which can obtain her compliance.

We have received no intelligence from abroad which deserves to be noted since your departure. The interval between the preliminary and definitive treaties has produced several new and interesting questions. One is, whether laws prohibiting commerce with British ports during the war have expired with the cessation of hostilities? A similar one is, whether the soldiers enlisted for the war are entitled to a discharge? At least half of the army under General Washington are under this description, and are urgent for such a construction of their engagements. A third question is, whether the preliminary treaty between France and Great Britain

has given such effect to the provisional articles between the latter and the United States as to require an execution of the stipulations in the sixth and seventh articles, or whether a definitive treaty only can produce this effect.

The system for foreign affairs is not yet digested, and, I apprehend, will be long on the anvil, unless the actual return of our Ministers from Europe should stimulate Congress on the subject.¹¹³

TO EDMUND RANDOLPH.

Philadelphia, April 29, 1783.

DEAR SIR,

The definitive treaty, it is said, is to be remitted to the two Imperial Courts for their approbation, before the last hand will be put to it. This will be a mere compliment, however; and, as the parties have settled their interests without their intermeditation, there can be no pretext, if there were a disposition, to meddle. It appears, from English gazettes, that Shelburne has been so pressed by the unpopularity of some of the terms of peace, that he could not prevent a vote of the House of Commons, declaring them to be disadvantageous and dishonorable. The consequence prognosticated is another change of the administration in favor of North's and Fox's parties, who have made a common cause against Shelburne.

The propositions relative to the national debt, with an address enforcing it, and referring to sundry documents, &c., is completed, and will soon be forwarded to the Legislatures.

TO EDMUND RANDOLPH.

Philadelphia, May 6, 1783.

DEAR SIR,

After a silence of four weeks, your favor of the twenty-sixth ultimo was particularly welcome. Your conjecture was but too well founded as to the compiler of the proclamation. The offensive passages were adverted to by some, but the general eagerness on the occasion, increased by some unavoidable delays, rendered all attempts to draw the attention of Congress to smaller inaccuracies unacceptable.

We have no late despatches from Paris, except a letter from Mr. Adams. We are informed from Madrid, by Mr. Carmichael and the Marquis de la Fayette, that that Court, since the British acknowledgment of our Independence, has dismissed its hauteur and reserve towards the United States, has treated the American Chargé d'Affaires with due attention, and has signified its acquiescence in the limits fixed by the provisional articles between the United States and Great Britain. The navigation of the Mississippi remains to be discussed.

Yesterday was fixed for an interview between General Washington and Sir Guy Carleton, for the purpose of taking arrangements for carrying the stipulations of the provisional articles into effect. The interview was proposed by the former, who intimated, that, as the evacuation of the post of New York was particularly interesting to the State of New York, Governor Clinton would accompany him on the interview. The answer of Carleton

imported that he did not decline the proposition, but suggested, that, as General Gray was expected with final orders, it might be best to postpone the conference, adding that he should be attended by *Lieutenant-Governor Elliott* and *Chief-Justice Smith*.¹¹⁴

TO THOMAS JEFFERSON.

Philadelphia, May 6, 1783.

DEAR SIR,

Congress have received a long letter from Mr. Adams, dated in February, addressed to the Secretary of Foreign Affairs. He animadverts on the revocation of his commission for a Treaty of Commerce with Great Britain; presses the appointment of a Minister to that Court with such a commission, &c., &c.

Letters from the Marquis de la Fayette and Mr. Carmichael show that the Court of Spain has become pretty tractable since the acknowledgment of our Independence by Great Britain. The latter has been treated with due respect, and the Court has agreed to accede to the territorial line it fixed for West Florida in the provisional articles. The navigation of the Mississippi remains to be settled.

My absence from Congress the past week disables me from giving you exact information of their latest proceedings. I am told that, in consequence of Mr. Adams's letter, the Secretary of Foreign Affairs has been instructed to project a treaty of commerce with Great Britain, which will probably bring the attention of Congress to the general department of foreign affairs.

TO THOMAS JEFFERSON.

Philadelphia, May 13, 1783.

DEAR SIR,

Marbois lately took occasion in our family to complain of ungenerous proceedings of the British against individuals, as well as against their enemies at large, and finally signified that he was no stranger to the letter transmitted to Congress, which he roundly averred to be spurious. His information came from Boston, where the incident is said to be no secret; but whether it be the echo of letters from Philadelphia, or has transpired from the correspondence of Mr. Adams to his private friends, is uncertain. This conversation passed during my absence in New Jersey, but was related to me by Mr. Carroll.

A project for a treaty of commerce with Great Britain has been reported by the Secretary of Foreign Affairs, and is now in the hands of a committee. The objects most at heart are; first, a direct trade between this country and the West Indies; secondly, a right of carrying between the latter and other parts of the British Empire; thirdly, a right of carrying from the West Indies to all other parts of the world. As the price of these advantages, it is proposed that we shall admit British subjects to equal privileges with our own citizens. As to the first object, it may be observed, that the bill lately brought into the British Parliament renders it probable that it may be obtained without such a cession; as to the second, that it concerns the Eastern States chiefly; and, as to the third, that it concerns them alone—whilst the privilege to be conceded will chiefly, if not alone, affect the Southern

States. The interest of these seems to require that they should retain at least the faculty of giving any encouragement to their own merchants' ships or mariners, which may be necessary to prevent a relapse under Scotch monopoly, or to acquire a maritime importance. The Eastern States need no such precaution.

General Washington and General Carleton have had an interview on the subject of arrangements for executing the provisional treaty. It was interrupted by the sudden indisposition of the latter. In the conversation which took place, he professed intentions of evacuating New York and all the posts in the United States held by British garrisons, as soon as possible, but did not authorize any determinate or speedy expectations. He confessed that a number of negroes had gone off with the refugees since the arrival of the treaty, and undertook to justify the permission by a palpable and scandalous misconstruction of the treaty, and by the necessity of adhering to the proclamations under the faith of which the negroes had eloped into their service. He said that if the treaty should be otherwise explained, compensation would be made to the owners; and, to make this the more easy, a register had been, and would be, kept of all negroes leaving New York before the surrender of it by the British garrison. This information has been referred by Congress to a committee. But the progress already made in the discharge of the prisoners—the only convenient pledge by which fair dealing, on the other side, could be enforced—makes it probable that no remedy will be applied to the evil.¹¹⁵

TO EDMUND RANDOLPH.

Philadelphia, May —, 1783.

DEAR SIR,

Your favor of the ninth instant was duly brought by yesterday's mail. My impatience is great to know the reception given to the propositions of Congress by the Assembly. I foresaw some of the topics which are employed against them, and I dread their effect from the eloquent mouths which will probably enforce them; but I do not despair. Until those who oppose the plan can substitute some other equally consistent with public justice and honor, and more conformable to the doctrines of the Confederation, all those who love justice, and aim at the public good, will be advocates for the plan. The greatest danger is to be apprehended from the difficulty of making the latter class sensible of the impracticability or incompetency of any plan short of the one recommended, the arguments necessary for that purpose being drawn from a general survey of the federal system, and not from the interior polity of the States singly.

The letter from the Delegation, by the last post, to the Governor, apprised the Legislature, through him, that negotiations for a treaty of commerce with Great Britain might be expected soon to take place; and that, if any instructions should be deemed proper, no time ought to be lost in giving the subject a legislative discussion. For my own part, I wish sincerely that the commercial interests of Virginia were thoroughly investigated, and the final sense of the State expressed to its representatives in Congress.

The power of forming treaties of commerce with foreign nations is among the most delicate with which Congress is entrusted, and ought to be exercised with all possible circumspection. Whilst an influence might be expected from them on the event or duration of the war, the public interest required that they should be courted with all the respectable nations of Europe, and that nice calculations of their tendency should be dismissed. The attainment of the object of the war has happily reversed our situation, and we ought no longer to enslave ourselves to the policy of the moment. The state of this country in relation to the countries of Europe, it ought to be observed, will be continually changing, and regulations adapted to its commercial and general interests at present may hereafter be directly opposed to them. The general policy of America is at present pointed at the encouragement of agriculture, and the importation of the objects of consumption. The wider, therefore, our ports are opened, and the more extensive the privileges of all competitors in our commerce, the more likely we shall be to buy at cheap, and sell at profitable, rates. But in proportion as our lands become settled, and spare hands for manufactures and navigation multiply, it *may* become our policy to favor those objects by peculiar privileges bestowed on our citizens; or at least to introduce regulations not inconsistent with foreign engagements, suited to the present state of things.

The relative situation of the different States, in this respect, is another motive to circumspection. The variance of their policy and interests, in the article of commerce, strikes the first view; and it

may, with great truth, be noted, that as far as any concessions may be stipulated in favor of foreign nations, they will chiefly be at the expense of those States which will share least in the compensations obtained for them. If, for example, restrictions be laid on the legislative rights of the States to prohibit, to regulate, or to tax as they please their imports and exports, and to give such preferences as they please to the persons or vessels employed in them, it is evident that such restrictions will be most felt by those States who have the greatest interest in imports and exports. If, on the other side, the citizens of the United States should, in return for such a stipulation, be allowed to navigate and carry in forbidden channels, is it not equally evident that the benefit must fall to the share of those States which export and consume least, and abound most in resources of ships and seamen?

Nor should it be overlooked, that, as uniform regulations of the commerce of the different States will so differently affect their several interests, such regulations must be a strong temptation to measures in the aggrieved States, which may first involve the whole Confederacy in controversies with foreign nations, and then in contests with one another. I may safely suggest, also, to your ear, that a variety of circumstances make it proper to recollect that permanent engagements, entered into by the Confederacy with foreign powers, may survive the Confederacy itself; that a question must then arise how far such engagements, formed by the States in their Federal character, are binding on each of them separately, and that they may become pretexts for

quarrels with particular States, very inconvenient to the latter, or for a general intrusion into American disputes. On the other hand, candor suggests that foreign connections, if founded on principles equally corresponding with the policy and interests of the several States, might be a new bond to the federal compact.

Upon these considerations I think it would be advisable to form all our commercial treaties in future with great deliberation; to limit their duration to moderate periods, and to restrain our Ministers from acceding finally to them till they have previously transmitted them, in the terms adjusted, for the revision and express sanction of Congress. In a treaty of commerce with Great Britain, it may be the policy of Virginia, in particular, to reserve her right as unfettered as possible over her own commerce. The monopoly which formerly tyrannized over it has left wounds which are not yet healed, and the numerous debts due from the people, and which, by the provisional articles, they are immediately liable for, may possibly be made instruments for re-establishing their dependence. It cannot, therefore, be for the interest of the State to preclude it from any regulations which experience may recommend for its thorough emancipation. It is possible that experience may never recommend an exercise of this right, nor do my own sentiments favor, in general, any restrictions or preferences in matters of commerce; but those who succeed us will have an equal claim to judge for themselves, and will have further lights to direct their judgments. Nor ought the example of old and intelligent nations

to be too far, or too hastily, condemned by an infant and inexperienced one. That of Great Britain is, in the science of commerce, particularly worthy of our attention; and did she not originally redeem the management of her commerce from the monopoly of the Hanse towns by peculiar exemptions to her own subjects? Did she not dispossess the Dutch by a like policy? And does she not still make a preference of her own vessels and her own mariners the basis of her maritime power? If Holland has followed a different system, the reason is plain. Her object is not to exclude rivals from her own navigation, but to insinuate herself into that of other nations.

The leading objects in the proposed treaty with Great Britain are, first, a direct commerce with the West Indies; secondly, the carrying trade between the different parts of her dominions; thirdly, a like trade between these and other parts of the world. In return for these objects we have nothing to offer of which we could well deprive her, but to secure to her subjects an entire equality of privileges with our own citizens. With regard to the first object it may be observed, that both the temper and the interest of the nation leave us little ground to apprehend an exclusion from it. The French have so much the advantage of them, from the facility of raising food, as well as the other produce of their Islands, that the English will be under the necessity of admitting supplies from the United States into their Islands, and they surely will prefer paying for them in commodities to paying for them in cash. With regard to the second and third objects, it may be observed,

that, although they present great advantages, they present them only to those States which abound in maritime resources. Lastly, with regard to the concession to be made on the part of the United States, it may be observed, that it will affect chiefly, if not solely, those States which will share least in the advantages purchased by it. So striking indeed does this contrast appear, that it may, with certainty, be inferred, that, if Great Britain were negotiating a treaty with the former States only, she would reject a mutual communication of the privileges of natives; nor is it clear that her apprehensions on this side will not yet lead her to reject such a stipulation with the whole.

If this subject should be taken up by the Legislature, I hope that, although not a member, your attention and aid will be given to it. If it should not be taken up publicly, I wish for your own private sentiments, and those of the most intelligent members which you may be able to collect.

We have no European intelligence. Sir Guy Carleton, in a letter to General Washington, avows the same sentiments as were expressed in the conference relative to the negroes, but repeats his caution against their being understood as the national construction of the Treaty.¹¹⁶

TO THOMAS JEFFERSON.

Philadelphia, May 20, 1783.

DEAR SIR,

For the tenor of the conditions on which Congress were formerly willing to accept the cession of Vir-

ginia, I beg leave to refer to their resolutions of the sixth of September, and tenth of October, 1780. I take it for granted, you have the Journals. The expunging of the article relative to State expenses was a subject of no less regret with me than it is with you, and for the same reason; but I acknowledge, that, considering the probable defect of vouchers in Virginia, and the ardor with which the clause was supported from some other quarters, mine was much diminished in the course of the discussion. On the last trial, there were but two or three States besides Virginia that favored it. South Carolina's opposition to it had great weight. After this clause was expunged, it was thought improper to retain the connective clause, as Virginia will now be at liberty to confine her accession to the revenue part of the plan, without enlarging her territorial cession, or being deprived of the opportunity of annexing any condition she may think fit. The connective clause, however, could not have been carried, I believe, either before or after the mutilation of the plan. Notwithstanding this disappointment, I adhere to my wishes, not only that the revenue may be established, but that the Federal rule of dividing the burdens may be changed, and the territorial disputes accommodated. The more I revolve the latter subject, the less inducement I can discover to a pertinacity on the part of Virginia, and the more interesting it appears to the Union.

I am sorry your departure from Richmond became necessary before more of the members were assembled. I make no doubt that useful impressions have been left with those who were so, and were suscep-

tible of them. I shall keep in mind the intimation relative to Mr. Short. The idea of adding a fraction of a year to my Congressional service is totally new, and even if it should prevail, will not, as far as I can see, coincide with my private convenience.

TO EDMUND RANDOLPH.

Philadelphia, May 27, 1783.

DEAR SIR,

The next post, I hope, will bring me your remarks on the budget of Congress, with the pulse of the Assembly with regard to it. The example of Virginia will have great, and perhaps decisive, influence on the event of it. In Rhode Island they are attacking it in the newspapers before it has appeared. But that State is swayed by a party which has raised and connected its importance with an opposition to every Continental measure. The bulk of the people are taken in by a belief, that, if no general impost on trade be levied, their State will be able to tax the neighboring States at pleasure. Should all the other States unite heartily in the plan, I do not think any single State will take upon itself the odium and the consequences of persevering in a veto upon it.

I wish much to know how far your hope was well founded, of an introduction of Mr. Jefferson into the Legislature. The hopes of some, I find, extend to his mission to Congress. The latter would be exceedingly fortunate, and, if his objections are not insuperable, ought, and I trust will, be urged upon

him by his friends. I have been also indulging a hope, that your return for such periods as would be most interesting, and would least interfere with the exercise of your profession, might be reconciled to your views. Unless temperate and experienced members come in for the ensuing year, I foresee that the exclusions required by the Confederation will make way for a change in the Federal Councils, not favorable to those Catholic arrangements on which the harmony and stability of the Union must greatly depend.

TO EDMUND RANDOLPH.

Philadelphia, June 10, 1783.

DEAR SIR,

Mr. Jones will have informed you that the mission of Payne to Rhode Island by Congress was a fiction of malice. If the trip was not a spontaneous measure of his own, I am a stranger to its origin.

I am told by one of the Judges of Appeal, that no case has yet required from them a construction of the epochs which are to limit captures. The third of March was generally applied at first to the American seas, but that opinion has rather lost ground. In New York, it is said that the third of April is adhered to. As the like phraseology is said to have been used in former treaties, the true construction might be found, I should suppose, in Admiralty precedents.

We have received the instruction relative to commercial treaties. The principle on which it is

founded corresponds precisely with my idea. But I know not how far the giving an opportunity to the States of exercising their judgments on proposed treaties will correspond in all cases with the doctrine of the Confederation, which provides for secrecy in some such cases. The deviation, however, if there be any, is trivial, and, not being an intended one, can have no ill consequences. No progress has been made towards a treaty with Great Britain, owing partly to a desire of hearing further from Europe, and partly to the paucity of States represented in Congress. It would seem that the plan of regulating the trade with America by a Parliamentary act has been exchanged, by the present Ministry, for an intended treaty for that purpose. Mr. Laurens was asked by Mr. Fox, whether the American Ministers had powers for a commercial treaty. His answer was, that he believed so; that a revocation of Mr. Adams's power had appeared some time ago in print, but he considered the publication as spurious. From this it would seem, that this act of Congress had never been communicated by the latter to his colleagues. He lately complained of the revocation in a very singular letter to Congress. I consider it as a very fortunate circumstance, that this business is still within our control, especially as the policy of authorizing *conditional* treaties only in Europe is so fully espoused by Virginia.¹¹⁷

Mr. Livingston has taken his final leave of the Department of Foreign Affairs. No nomination of a successor has yet been made, though the time assigned for the election has passed, nor does the conversation centre on any individual. I can form

no conjecture on whom the choice will ultimately fall.

The offers of New York and Maryland of a seat for Congress are postponed till October next, in order to give time for other offers, and for knowing the sense of the States on the subject. Copies of those acts are to be sent to the Executives of each State.

Congress have resumed, at length, the cession of Virginia. The old obnoxious report was committed, and a new report has been made, which, I think, a fit basis for a compromise. A copy of it is enclosed for the Governor. I have also transcribed it in my letter to Mr. Jones. As it tacitly excludes the pretensions of the companies, I fear obstacles may arise in Congress from that quarter. Clark, from New Jersey, informed Congress, that the Delegates from that State, being fettered by instructions, must communicate the plan to their constituents. If no other causes of delay should arise, the thinness of Congress at present will prove a material one. I am at some loss for the policy of the companies in opposing a compromise with Virginia. They can never hope for a specific restitution of their claims; they can never even hope for a cession of the country between the Alleghany and the Ohio by Virginia; as little can they hope for an extension of a jurisdiction of Congress over it by force. I should suppose, therefore, that it would be their truest interest to promote a general cession of the vacant country to Congress; and in case the titles of which they have been stripped, should be deemed reasonable, and Congress should be disposed to make any equitable

compensation, Virginia would be no more interested in opposing it than other States.

TO THOMAS JEFFERSON.

Philadelphia, June 10, 1783.

DEAR SIR,

Congress have received two letters from Mr. Laurens, dated London, one on the fifteenth of March, and the other the fifth of April. In the former he persists in the jealousy, expressed in his letter of the 24th of December, of the British Councils; he says that Shelburne had boasted of his success in gaining the provisional treaty without the concurrence of France, and of the good effects he expected to draw from that advantage. Mr. Laurens's remark was, that admitting the fact, which he did not, although it might disgrace and even prove fatal to the American Ministers, it could have no such effects on the United States. His second letter expresses more confidence in the Duke of Portland and Mr. Fox. These Ministers have withdrawn the subject of commerce with the United States from Parliament, and mean to open negotiations for a treaty with their Ministers in Europe. Mr. Fox asked Mr. Laurens, whether these had powers for that purpose. His answer was, that he believed so; that he had seen a revocation of Mr. Adams's commission noticed in the gazettes, but that he considered the paragraph as spurious. From this it would seem, that Mr. Adams had never communicated this diminution of his powers to his colleagues. These letters leave us

in the suspense they found us as to the definitive treaty. Mr. Laurens thinks that no such event could have been relied on under Shelburne's administration. He was, on the fifth of April, setting out for Paris with Mr. David Hartley, successor to Mr. Oswald, from whence he should proceed to America, unless a definitive treaty was near being concluded. Notwithstanding the daily arrivals from every quarter, we get not a line on the subject from our Ministers at Versailles.

Mr. Dumas has enclosed to Congress sundry papers, from which it appears that the Dutch indulge a violent animosity against the French Court for abandoning their interests, and the liberty of navigation, by a premature concluding of the preliminaries. Complaints of this kind are made through Dumas to Mr. Adams, with inquiries whether the American Ministers had powers to concert engagements with the United Provinces, His Most Christian Majesty, and His Catholic Majesty, for maintaining the rights asserted by the neutral Confederation; or, if the two last decline, with the United Provinces alone. The answer of Mr. Adams is not included, but references to it import that it was satisfactory, and that negotiations were to be opened accordingly. It is certain, notwithstanding, that no powers equal to such a transaction were ever given generally to the Ministers; and that, as far as they were given, they were superseded by the commission to Mr. Dana. This correspondence commenced in January, and is brought down to late in March; and yet no intimation whatever concerning it has been received from the Ministers themselves.

Congress have lately sent instructions to the Ministers in Europe, to contend, in the final treaty, for such amendment of the article relating to British debts as will suspend payment for three years after the war, and expressly exclude interest during the war.

Mr. Livingston has taken his final leave of the Department of Foreign Affairs. He would have remained, if such an augmentation of his salary had been made as would have secured him against future expense. But besides the disinclination of several members to augment salaries, there was no prospect of a competent number of States for an appropriation of money until he must have lost the option of Chancellorship of New York. No successor has been yet nominated, although the day for a choice has passed. I am utterly at a loss to guess on whom the choice will ultimately fall. Arthur Lee will be started, if the defect of a respectable competitor should be likely to force votes upon him.

The general arrangement of the foreign system has been suspended by the thinness of Congress, in part, and partly by the desire of further information from Europe. I fear much the delay will be exceedingly protracted. Nothing but final resignations of the Ministers abroad, and the arrival of Foreign Ministers here, will effectually stimulate Congress into activity and decision on the subject. How far, and at what time, the first cause will operate, is precarious. The second seems less so. Mr. Van Berkel has sent directions for proper provisions for his reception in the next month. A Swedish gentleman, recommended by Dr. Franklin as a philosopher,

and by the Count de Vergennes as an intended Minister, has been here for some time. From the temper of Spain, a mission from that Court also is not improbable.

The treaty of commerce with Great Britain is another business suspended by the same cause. The Assembly have instructed us to reserve to Congress a revisal after it shall have been settled in Europe. This will give force to the doctrine of caution hitherto maintained by us.¹¹⁸

TO EDMUND RANDOLPH.

Philadelphia, June 17, 1783.

DEAR SIR,

The definitive treaty is not yet on this side the water; nor do we yet hear what stage it is in on the other side. Mr. Dana informs us, in a letter of the seventeenth of February, that, in consequence of proper encouragement, he had finally announced himself at the Court of St. Petersburg, but does not gratify us with a single circumstance that ensued. The Gazette of this morning, enclosed, contains the latest intelligence from the British Parliament which I have seen.

The measure of furloughing the troops enlisted for the war has been carried into effect with the main army, and will save a great expense to the public. The prospect which it presented to the officers who were to retire from their subsistence, without receiving the means of subsistence elsewhere,

produced a very pathetic representation to the Commander-in-Chief. His answer, by rectifying some errors on which it dwelt, and explicitly giving it as his opinion, that Congress had now done every thing which could be expected from them towards fulfilling the engagements of their country, had the effect to which it was entitled. The troops in the barracks at this place, emboldened by the arrival of a furloughed regiment returning to Maryland, sent in a very mutinous remonstrance to Congress, signed by the non-commissioned officers in behalf of the whole. It painted the hardships which they had suffered in the defence of their country, and the duty of their country to reward them, demanding a satisfactory answer the afternoon on which it was sent in, with a threat of otherwise taking such measures as would right themselves. The prudent and soothing measures taken by the Secretary of War and General St. Clair have, I believe, obviated the embarrassment.

Another embarrassment, and that not a small one, will soon be laid before them by a committee. General Washington, the Secretary of War, and all the professional men who have been consulted, report that at least three or four regiments will be essential as a peace establishment for the United States; and that this establishment ought to be a Continental one. West Point, the frontier posts to the Westward, and a few garrisons on the sea-shore, are conceived by them to be indispensable. Some naval force is deemed at least equally so, with a few docks, and protections for them. On looking into the Articles of Confederation, the military power of

Congress, in time of peace, appears to be at least subject to be called in question. If Congress put a construction on them favorable to their own power, or even if they ask the States to sanction the exercise of the power, the present paroxysm of jealousy may not only disappoint them, but may exert itself with more fatal effect on the revenue propositions. On the other side, to renounce such a construction, and refer the establishment to the separate and internal provision of the States, will not only render the plan of defence either defective in a general view, or oppressive to particular States; but may hereafter, when the tide of prejudice may be flowing in a contrary direction, expose them to the reproach of unnecessarily throwing away a power necessary for the good of the Union, and leaving the whole at the mercy of a single State. The only expedient for this dilemma seems to be delay; but even that is pregnant with difficulties equally great; since, on the arrival of the definitive treaty, Congress must, in pursuance of such a neutral plan, suffer the whole military establishment to be dissolved, every garrisoned post to be evacuated, and every strong hold to be dismantled. The remaining ships of war, too, must be sold, and no preparatory steps taken for future emergencies on that side.

I am exceedingly pleased to find Mr. Jefferson's name at the head of the new Delegation. I hope it has been placed there with his knowledge and acquiescence.

The order of the day for electing a Secretary of Foreign Affairs was called for on Tuesday last, but no nominations having been then made, the business

was put off till the present day. The nominations since made are, Mr. A. Lee, by Mr. Bland; Mr. Jonathan Trumbull, junior, by Mr. Higginson; Colonel Tilghman, by Mr. Gorham; Mr. George Clymer, by Mr. Montgomery. General Schuyler has remained on the list since the fall, but was withdrawn by the Delegates of New Jersey, at the instance of Mr. Hamilton. Mr. Jefferson was nominated by Mr. Gorham, but withdrawn also, on intimation that he would not undertake the service.¹¹⁹

TO EDMUND RANDOLPH.

Philadelphia, June 24, 1783.

DEAR SIR,

I cannot break in upon my punctuality so far as to omit acknowledging your favor by yesterday's post, though I can scarce do more than refer you to the official letter to the Governor, and mine to Mr. Jones, which you will see, whether he be absent or present, having addressed it to you on the first contingency. In the former letter Mr. Mercer has related the several circumstances which have resulted from a revolt of the soldiery at this place, who have recurred to that irregular mode of seeking redress. Their grievances all terminate, as you may suppose, in the want of their pay, which Congress are unable to give them; and the information we received from the States is far from opening any fresh sources for that purpose. Indeed, the prospect on the side of the latter, compared with the symptoms beginning to appear on the side of the army, is

to the last degree afflicting to those who love their country, and aim at its prosperity. If I had leisure to use a cypher, I would dilate much upon the present state of our affairs; which, as it is, I must defer to another occasion.

I was prepared, by Mr. Jones's late letters, for the fate to which the budget of Congress has been consigned, but the circumstances under which it arrived here gave peculiar pungency to the information. I wish that those who abuse Congress, and baffle their measures, may as much promote the public good as they profess to intend. I am sure, they will not do it more effectually than is intended by some, at least, of those who promote the measures of Congress.

TO EDMUND RANDOLPH.

Philadelphia, June 30, 1783.

DEAR SIR,

My last informed you of the mutinous insult which was offered to Congress on the Saturday preceding. On the evening after the insult, Congress met and resolved, that the Executive Council should be informed that, in their opinion, effectual measures ought to be immediately taken for suppressing the mutiny and supporting the public authority; that a committee should confer with the Executive, and, in case no satisfactory grounds should appear of adequate and prompt exertions for those purposes, the President should, with the advice of the Committee, be authorized to summon the members to meet at Trenton or Princeton, in New Jersey; that an express

be sent to General Washington for a detachment of regular troops. The conference with the Executive produced nothing but doubts concerning the disposition of the militia to act, unless some actual outrages were offered to persons or property. They even doubted whether a repetition of the insult to Congress would be a sufficient provocation. Neither the exhortations of the friends of President Dickenson, nor the reproaches of his enemies, could obtain an experiment on the temper of the militia. During the attendance on the ultimate determinations of the Executive, reports from the barracks were in constant vibration. At one moment, the mutineers were penitent, and preparing submissions: the next, they were meditating violent measures. Sometimes the bank was their object; at other times, the seizure of the members of Congress, with whom they imagined an indemnity for their offence might be purchased. On Tuesday, about two o'clock, the efforts of the Government being despaired of, and the reports from the barracks being unfavorable, the Committee advised the President to summon the members to meet in New Jersey, which he did verbally as to the members present, leaving a general proclamation behind him for the press. I left Princeton on Friday evening, when six States only had met. Rhode Island made a seventh on Saturday. To-day, I suppose, they will be on business. I shall set out this afternoon on my return.

Since Congress left the city, the mutiny has been entirely extinguished; the mutineers having submitted, and most of them accepted furloughs under the stipulation of Congress on that subject. At the time

of submission, they betrayed their leaders, the chief of whom proved to be a Mr. Carberry, a deranged officer, and a Mr. Sullivan, a lieutenant of horse, both of whom made their escape. Some of the most active sergeants have also run off. The precise object and plan of the conspiracy are unascertained.

The removal of Congress, under the circumstances which gave birth to it, is a subject of much conversation and criticism. Many of those who condemn it are but partially acquainted with facts. Many of those who justify it seem to have their eye remotely on the disgrace of the Executive Councils of the State.

TO EDMUND RANDOLPH.

Philadelphia, July 8, 1783.

DEAR SIR,

Yours of the twenty-eighth of June, like the preceding one, found me at this place, where my preparations for leaving Congress will keep me much of the remainder of my time. The footing on which the impost is placed by the Assembly is not an eligible one, but preferable to a total rejection. It is to be regretted that immediate use was not made of the impression of the letter from General Washington. The interval preceding the next session will give full scope to malignant insinuations. The reversal of the award in the case of Nathan may possibly be just in itself; but it will require all your eloquence, I fear, to shield the honor of the State from its effects. The agency which the Delegation

had in the affair will impart no small share of the mortification to them. I suppose the feelings of Mr. Jefferson and Mr. Harrison, also, will not be much delighted by it.

General Howe is here, with a corps of New England troops detached by General Washington for the purpose of quelling the mutiny. His only employment will now be to detect and punish the promoters of it. Congress remain at Princeton. Their removal from that place will soon become an interesting question. Not a few maintain strenuously the policy of returning to this city, in order to obviate suspicions abroad of any disaffection in the mass of so important a State to the Federal Government, and to restore mutual confidence with a State which has of late been so firm in adhering to Federal measures. It is supposed, too, that a freer choice might have been made among the permanent seats offered by the States, than at a place where the necessity of a speedy removal would give undue advantage to an offer which happened to be in greatest readiness for immediate use. The citizens here, in general, regret the departure of Congress, disavow the idea that they were unwilling to take arms in defence of Congress, and will probably enter into some declaration tending to invite their return.

We hear nothing from our Ministers in Europe. The evacuation of New York, as to the time, seems as problematical as ever. The sending off the negroes continues to take place under the eyes and remonstrances of the inspectors of embarkations.

TO EDMUND RANDOLPH.

Philadelphia, July 15, 1783.

DEAR SIR,

Yesterday's post brought me no letter from you. The contents of the enclosed paper make up every thing of consequence which I have for a subject at present. The inquiry into the mutiny has not advanced far enough to bring forth any discoveries. An address is circulating, and will be generally signed by the citizens, reciting to Congress the proofs they have heretofore given of attachment to the Federal Government, professing a continuance of that attachment, and declaring their readiness to support the dignity and privileges of Congress, in case the convenience of this place for transacting the public affairs should give it a preference to others, until a final residence shall be fixed.

TO THOMAS JEFFERSON.

Philadelphia, July 17, 1783.

DEAR SIR,

The usual reserve of our Ministers has kept us in entire suspense since my last, with regard to the definitive treaty and every thing else in Europe. The only incident produced in this interval has been that which removed Congress from this city to Princeton. I have selected the newspaper which contains the Report of a committee on that subject, from which you will collect the material information. Soon after the removal of Congress the mutineers

surrendered their arms, and impeached some of their officers, the two principal of whom have escaped to sea. General Howe, with a detachment of Eastern troops, is here, and is instituting an inquiry into the whole plot, the object and scheme of which are, as yet, both involved in darkness. The citizens of this place seem to disavow the alleged indisposition to exert force against insults offered to Congress, and are uniting in an address rehearsing the proofs which they have given of attachment to the Federal authority, professing a continuance of that attachment, and declaring the utmost readiness, on every occasion, to support the dignity and privileges of Congress, if they should deem this place the fittest for transacting the public business until their permanent residence shall be fixed. What effect this address, backed by the scanty accommodations of Princeton, will have on Congress, is uncertain. The prevailing disposition seemed to be that a return to their former residence, as soon as the way should be opened, would be prudent in order to prevent any inferences abroad of disaffection in the mass of so important a state to the revolution or the Federal Government. Others suppose that a freer choice among the seats offered to Congress could be made here, than in a place where the necessity of a speedy removal would give an undue advantage to the seat happening to be in greatest readiness to receive them. The advocates for Annapolis appear to be sensible of the force of this consideration, and probably will, if they can, detain Congress in Princeton until a final choice be made. New Jersey will probably be tempted to concur in the plan, by the

advantage expected from the actual possession. Other members are extremely averse to a return to Philadelphia, for various reasons.

TO EDMUND RANDOLPH.

Philadelphia, July 21, 1783.

DEAR SIR,

This will serve merely to prevent a chasm in my correspondence, having nothing whatever to make a subject of it. We hear nothing from our Ministers abroad. The Court Martial on the parties to the late mutiny have come to no decision as yet. The address from this city to Congress is, I believe, gone up, pretty generally signed; my next will probably communicate the result of it. Among other conciliatory steps, they have, by voluntary subscriptions, given a very splendid and cordial entertainment to the officers of the detachment under General Howe. The Legislature of Massachusetts have, in their election for the ensuing year, left out all their Delegates now in Congress, as a penalty for their concurrence in the provision lately adopted relative to half-pay.

TO EDMUND RANDOLPH.

Philadelphia, July 28, 1783.

DEAR SIR,

Yesterday's mail brought me no letter from you. The address from the citizens of Philadelphia came

before Congress on Thursday, and was referred to a committee of five members. The answer will probably be a very civil one, but will leave open the question touching the return of Congress. This question, if decided at all in the affirmative, must be preceded by despair of some of the competitors for the permanent residence, almost all of whom now make a common cause against Philadelphia. It is not improbable that, when the urgency of the scanty accommodations at Princeton comes to be more fully felt, with the difficulty of selecting a final seat among the numerous offers, New York, in case of its evacuation, may be brought into rivalry with Philadelphia for the temporary residence of Congress. My own opinion is, that it would be less eligible, as removing every thing connected with Congress, not only farther from the South, but farther from the centre, and making a removal to a Southern position finally more difficult than it would be from Philadelphia. Williamsburg seems to have a very slender chance, as far as I can discover. Annapolis, I apprehend, would have a greater number of advocates. But the best chance, both for Maryland and Virginia, will be to unite in offering a double jurisdiction on the Potomac. The only dangerous rival in that case will be a like offer from New Jersey and Pennsylvania on the Delaware; unless, indeed, Congress should be carried to New York before a final choice be made, in which case it would be difficult to get them out of that State.

In order to prepare the way to their permanent residence, Congress have appointed a committee to define the jurisdiction proper for them to be invested

with. Williamsburg has asked an explanation on this point. The nearer the subject is viewed, the less easy it is found to mark the just boundary between the authority of Congress and that of the State, on one side, and, on the other, between the former and the privileges of the inhabitants. May it not also be made a question, whether, in constitutional strictness, the gift of any State, without the concurrence of all the rest, can authorize Congress to exercise any power not delegated by the Confederation,—as Congress, it would seem, are incompetent to every act not warranted by that instrument, or some other flowing from the same source? I wish you could spare a little attention to this subject, and transmit your ideas on it. Contrary to my intention, I shall be detained here several weeks yet, by a disappointment in some circumstances which must precede my setting out for Virginia.

There is considerable ground to believe that Carleton is possessed of the definitive treaty. He has lately sent Congress several depositions relative to forgeries of Mr. Morris's notes, the authors of which he has confined in New York, and has requested that persons may be sent in to attend the examination.

The Court Martial is still proceeding in the investigation of the mutiny, but have disclosed no result.

TO EDMUND RANDOLPH.

Philadelphia, August 5, 1783.

DEAR SIR,

The gazette which I enclose will give you a sight of the Philadelphia address to Congress, and their answer. Since I left Princeton last, I understand the question has been agitated relative to the return of Congress to this city, and a day fixed for its final discussion. There is little reason to suppose that it will be decided in the affirmative by the present composition and thinness of Congress. I rather suppose that no question will be taken when the probability of a negative is fully discovered; though it will be pushed by those who wish to multiply obstacles to a removal south of the Delaware.

The arrival of the definitive treaty at New York, which my last represented as probable, has sunk into general disbelief. The most sanguine opinion goes no farther now than to the arrival of some preliminary intelligence and instructions touching it.

TO THOMAS JEFFERSON.

Philadelphia, August 11, 1783.

DEAR SIR,

The reserve of our foreign Ministers still leaves us the sport of misinformations concerning the definitive treaty. We all thought a little time ago that it had certainly arrived at New York. This opinion, however, has become extinct, and we are thrown back on the newspaper evidence, which, as usual, is

full of contradictions. The probability seems to be, that the delay arises from discussions with the Dutch. Mr. Dana has been sorely disappointed in the event of his announcing himself to the Court of Russia. His written communications obtain verbal answers only, and these hold up the mediation to which the Empress, with the Emperor of Germany, has been invited, as a bar to any overt transaction with the United States; and even suggest the necessity of new powers from the latter, of a date subsequent to the acknowledgment of their sovereignty by Great Britain. Having not seen the letters from Mr. Dana myself, I give this idea of them at second hand; remarking, at the same time, that it has been taken from such passages only as were not in cypher; the latter being not yet translated. Congress remain at Princeton, utterly undecided, both as to their ultimate seat and their intermediate residence. Very little business of moment has been yet done at the new Metropolis, except a ratification of the treaty with Sweden. In particular, nothing has been done as to a foreign establishment. With regard to an internal peace establishment, though it has been treated with less inattention, it has undergone little discussion. The Commander-in-Chief has been invited to Princeton, with a view to obtain his advice and sanction to the military branches of it, and is every day expected there. The budget of Congress is likely to have the fate of many of their other propositions to the States. Delaware is the only one among those which have bestowed a consideration on it, that has acceded *in toto*. Several Legislatures have adjourned without giving even that mark of

their condescension. In the Southern States a jealousy of congressional usurpations is likely to be the bane of the system; in the Eastern, an aversion to the half-pay provided for by it. New Jersey and Maryland have adopted the impost, the other funds recommended being passed for one year only by one of these States, and postponed by the other. Pennsylvania has hitherto been friendly to liberal and federal ideas; and will continue so, unless the late jar with Congress should give a wrong bias, of which there is some danger. Massachusetts has, in the election of Delegates for the ensuing year, stigmatized the concurrence of those now in place in the provision for half-pay, by substituting a new representation; and has sent a memorial to Congress, which, I am told, is pregnant with the most penurious ideas, not only on that subject, but on several others which concern the national honor and dignity. This picture of our affairs is not a flattering one; but we have been witnesses of so many cases in which evils and errors have been the parents of their own remedy, that we cannot but view it with consolations of hope.¹²⁰

TO EDMUND RANDOLPH.

Philadelphia, August 12, 1783.

DEAR SIR,

Our late belief of the arrival of the definitive treaty at New York has become utterly extinct. From the tenor of the newspapers the delay seems to be the effect of discussions with the Dutch. The

enclosed letter from our friend Hawkins provides for the article of Russian intelligence. I understand, from Mr. Mercer, who is here on business as well as myself, that Mr. Dana's despatches were, in part, undecyphered when Mr. Hawkins' transcript was made. The Legislature of Massachusetts have sent a memorial to Congress, wearing a very unpropitious aspect on the grant of half-pay to the army, and in other respects breathing a penurious spirit, which, if indulged, will be fatal to every establishment that requires expense. They profess great poverty, and have declined any decision on the revenue propositions of Congress. Rhode Island did not even bestow a consideration on them. Mr. Howell, from the latter State, after being informed of the course of Virginia, said that her backwardness very much emboldened the States that were disinclined to a general revenue. Congress have voted General Washington an elegant bronze statue. He has been invited to Princeton, as well to relieve him from the tedium which he suffers on the North River, as to make use of his counsel in digesting a peace establishment.

FROM MR. HAWKINS TO MR. MADISON.

Princeton, August 9, 1783.

DEAR SIR,

We have letters from Mr. Dana up to the fourteenth of April, O. S. He has communicated his mission to the Vice-Chancellor, Count Osterman, and instead of being received, after a second communication, as he expected, he upon invitation visited

the Count, who made a verbal communication, in substance as follows :

First. That Her Majesty could not, consistently with the character of a mediator, receive a Minister from the United States till the conclusion of the definitive treaty between France, Spain, and Great Britain.

Secondly. That she could not even then do it, consistently with the laws of neutrality, while his letter of credence bore date prior to the acknowledgment of their independence by the King of Great Britain.

Thirdly. That she could not do it regularly, while his letters of credence bore date before she herself had acknowledged their independence.

Fourthly. That she could not do it consistently, before a Minister had been received from the United States in Great Britain.¹²¹

BENJAMIN HAWKINS.

TO EDMUND RANDOLPH.

Philadelphia, August 18, 1783.

DEAR SIR,

On Thursday, a question for returning to Philadelphia was put, and decided in the negative by a large majority. The friends of the measure, foreseeing its fate, and supposing that a negative declaration could answer no good purpose, and might an ill one, withdrew it. The more moderate opponents concurred in the inexpediency of proclaiming, unnecessarily, an aversion in Congress to Philadelphia. But

some of this class were so keen in their hostility, that a motion was made by two of them to return, who, on the question, voted against their own motion. The public will not, I believe, fix on this proceeding as one of the brightest pages of the Journals. The abuses to which such an artifice may be extended are palpable. The merit of it in this application belongs to Mr. Howell, of Rhode Island, and Mr. Read, of South Carolina. The motion was first made by Mr. Read, but in the course of the transaction devolved on Mr. Howell. I know of none that will read with pleasure this affair, unless it be the Executive of Pennsylvania, and those who wish to refer the removal of Congress to *other motives* than the national dignity and welfare.

Congress have letters from Mr. Laurens, of the seventeenth of June, but they decide nothing as to the definitive treaty. We have no reason, however, to impute the delay to any cause which renders the event suspicious. It is said that the British councils grow more and more wary on the subject of a commercial treaty with the United States, and that the spirit of the navigation act is likely to prevail over a more liberal system.

South Carolina, we learn, has agreed to the impost, on condition only that the revenue be collected by her own officers, and be credited to her own quota. It is supposed that she will agree to exchange the valuation of land for the proposed rule of numbers. But on this point Rhode Island was more inflexible than on that of the impost. I pity, from my heart, the officers of the Eastern line, who

are threatened by these prospects with disappointments which the Southern officers have no idea of. From much conversation which I have lately had with some of the former, and from other information, there appears great reason to believe, that, if no *continental provision* be made for them, they will not only be docked of their half-pay, but will run great hazard of being put off with regard to a great share of their other pay, on the pretence of their States that they have already advanced beyond their proportion.¹²²

TO EDMUND RANDOLPH.

Philadelphia. August 24, 1783.

DEAR SIR,

All that I have now to tell you is, that Sir Guy Carleton has notified to Congress his having received orders for the evacuation of New York, but he specifies no time fixed, either by the orders or by his own plans. He repeats his lamentations touching the Loyalists, and insinuates that the proceedings of the people against them are a proof that little or no government exists in the United States.

TO EDMUND RANDOLPH.

Princeton, August 30, 1783.

DEAR SIR,

We have nothing from Europe that can be depended on, relative to the definitive treaty, nor any

thing from New York as to the time it will be evacuated. A pamphlet has lately come over from Great Britain which appears to be well adapted to retard, if not prevent, a commercial treaty, and which is said to be much attended to. It urges an adherence to the principle of the Navigation Act, by which American vessels will be excluded from the trade between the separate parts of the Empire, and from all intercourse with the dependent territories. It undertakes to show, from an enumeration of the produce of the United States and the manufactures consumed by them, that those of Great Britain, recommended by the superior credit which her merchants can give, will be sufficiently sure of a preference in the American market. And, lastly, it maintains that the interests of the States are so opposite in matters of commerce, and the authority of Congress so feeble, that no defensive precautions need be feared on the part of the United States; and threatens, that, in case they should refuse to let British vessels exclusively carry on a commerce between the United States and the West Indies, as far as the interest of the Islands may require, the vessels of one State shall not be permitted to carry the produce of another to any British port. The whole tenor of the reasoning supposes that France will not permit vessels of the United States to trade with their Islands, in which there is good reason to believe they are not mistaken. The object of the French Administration is said to be, to allow a direct trade between the United States and their West India possessions, but to confine it to French bottoms.

The Legislature of Pennsylvania have unanimously adopted the recommendations of Congress, both as to revenue and a change of the Federal rule for apportioning the common burdens. They will also present an invitation to Congress, we understand, to resume their sessions at Philadelphia, if that place be judged most fit for the despatch of public business, until a permanent seat be chosen and prepared; giving at the same time explicit assurances of support in case it should on any occasion be needed. What effect this conciliatory proposition may have on the temper of Congress is precarious. With some, the complaisance shown to the late recommendations of Congress will be far from softening the dislike. With others, Philadelphia will ever be obnoxious while it contains and respects an *obnoxious character*. Annapolis has seized the present occasion to forward her views with respect to Congress, and has courted their presence in the most flattering terms. During this contest among the rival seats, we are kept in the most awkward situation that can be imagined; and it is the more so as we every moment expect the Dutch Ambassador. We are crowded too much, either to be comfortable ourselves, or to carry on the public business with advantage. Mr. Jones and myself, on our arrival, were extremely put to it to get any quarters at all, and are at length put into one bed in a room not more than ten feet square.¹²³

TO EDMUND RANDOLPH.

Philadelphia, September 8, 1783.

DEAR SIR,

The delay of the definitive treaty, although not fully explained to Congress, excites less disquietude here than I find it does in Virginia. Our latest official advices were from Mr. Laurens, of the seventeenth of June. The conduct of the British administration was far from explicit, according to his state of it, but probably proceeded more from the discordant materials of which it is composed, and doubts as to the commercial footing on which America ought to be placed, than from any insidious views. Why, indeed, a commercial treaty should be made to clog the treaty of peace, is left to conjecture. Perhaps the fact may not be true, and the delay of the latter may be owing still to the old cause, to wit, a discussion of the intricate points with the Dutch. The situation of Great Britain is such, that nothing but some signal change in the aspect of things in this hemisphere can inspire a fresh disposition for war; notwithstanding the menacing tone of Sir Guy Carleton.

The Legislature of Pennsylvania have taken every possible step to expiate the default of the Executive, short of an impeachment of its members, which the rigor of some members of Congress included among the terms of reconciliation with the State. They have expressly invited Congress back, assured them of honorable protection, and given up the State-house with the appendages for their temporary use. They have also made Germantown a competitor for the permanent abode of Congress.

The opposition in the New England States to the grant of half-pay, instead of subsiding, has increased to such a degree as to produce almost a general anarchy. In what shape it will issue, is altogether uncertain. Those who are interested in the event look forward with very poignant apprehensions. Nothing but some Continental provision can obtain for them this part of their reward.

Why did not the Assembly stop the sale of land warrants? They bring no profit to the public treasury, are a source of constant speculation on the ignorant, and will finally arm numbers of citizens of other States, and even foreigners, with claims and clamors against the faith of Virginia. Immense quantities have from time to time been vended in this place at immense profit, and in no small proportion to the subjects of our Ally. The credulity here being exhausted, I am told the land-jobbers are going on with their commodity to Boston and other places.

TO EDMUND RANDOLPH.

Princeton, September 13, 1783.

DEAR SIR,

Our Ministers in Europe have made some amends for their long silence, by voluminous despatches brought down to the twenty-seventh of July. They were received yesterday by Congress. No definitive treaty had then been signed by any of the parties, though all had been ready except Holland and America. The former is said to have settled her

difficulties. The American Ministers have been endeavouring to incorporate some important commercial stipulations, but in vain; and, in case of emergency, must come forward with the provisional articles to be signed as the definitive treaty. The conduct of Great Britain in the negotiation with America has shown great unsteadiness, if not insidiousness, on the subject of commerce; and the enclosed proclamation of the second of July is a proof that some experiment is intended on the wisdom, firmness, and union of the States, before they will enter into a treaty in derogation of her Navigation Act. Congress will probably recommend some defensive plan to the States. If it should meet with the fate of former recommendations, it will not probably be owing to Rhode Island, whose staple interest, more than that of any others, lies in carrying between the United States and the West Indies. If it fails at all, it will prove such an inefficacy in the Union as will extinguish all respect for it and reliance on it.

TO THOMAS JEFFERSON.

Princeton, September 20, 1783.

DEAR SIR,

Your favor of the thirty-first ultimo came to hand yesterday. As the reason which chiefly urged my departure for Virginia has ceased, I have been led to protract my attendance on Congress by the interest I felt in some measures on foot, and the particular interest which my constituents have in them. Two of these were the territorial cession and the

permanent seat of Congress. The former was a few days ago put in a form which I hope will meet the ultimatum of Virginia. The first Monday in next month is fixed for a decision of the latter; after which it may still be necessary to choose a temporary residence until the permanent one can be made ready. I am utterly unable to foretell how either of these points will be determined. It is not impossible that an effective vote may be found attainable on neither; in which case the winter must be spent in this village, where the public business can neither be conveniently done, the members of Congress be decently provided for, nor those connected with Congress provided for at all. I shall lose no time in looking out for quarters for you, and entering into provisional engagements in your favor.

Our last information from Europe is dated the twenty-seventh of July. France and Spain were then ready for the definitive signing of the peace. Holland was on the point of being so. The American Plenipotentiaries had done nothing on the subject, and in case of emergency could only sign the provisional treaty as final. Their negotiations had been spent chiefly on commercial stipulations, from which Great Britain, after very different professions and appearances, altogether drew back. The ready admission she found into our commerce, without paying any price for it, has suggested the policy of aiming at the entire benefit of it, and at the same time securing the carriage of the West India trade, the price she at first bid for it. The supposed contrariety of interests among the States, and the impotence of the Federal Government, are urged by the

ministerial pamphleteers as a safeguard against retaliation. The other nations of Europe seem to have more honorable views towards our commerce, sundry advances having been made to our Ministers on that subject.

Congress have come to no decision even as yet on any of the great branches of the peace establishment. The military branch is supported and quickened by the presence of the Commander-in-Chief, but without any prospect of a hasty issue. The Department of Foreign Affairs, both internal and external, remains as it has long done. The election of a Secretary has been an order of the day for many months without a vote being taken. The importance of the Marine Department has been diminished by the sale of almost all the vessels belonging to the United States. The Department of Finance is an object of almost daily attack, and will be reduced to its crisis on the final resignation of Mr. Morris, which will take place in a few months. The War Office is connected with the military establishment, and will be regulated, I suppose, in conformity to what that may be. Among other subjects which divide Congress, their constitutional authority, touching such an establishment in time of peace, is one. Another still more puzzling is the precise jurisdiction proper for Congress within the limits of their permanent seat. As these points may possibly remain undecided till November, I mention them particularly that your aid may be prepared. The investigation of the mutiny ended in the condemnation of several sergeants, who were stimulated to the measure, without being apprized

of the object, by the two officers who escaped. They have all received a pardon from Congress. The real plan and object of the mutiny lies in profound darkness. I have written this in hopes that it may get to Monticello before you leave it. It might have been made more interesting if I had brought the cypher from Philadelphia, though my present situation required a great effort to accomplish as much as I have. I am obliged to write in a position that scarcely admits the use of any of my limbs, Mr. Jones and myself being lodged in a room not ten feet square, and without a single accommodation for writing.¹²⁴

TO EDMUND RANDOLPH.

Princeton, September 20, 1783.

DEAR SIR,

I have nothing to add to my last, on the subject of foreign affairs, further than that the Court of France has fixed on L'Orient as a free port for the United States. The Virginia cession underwent a decision of Congress a day or two after my last. The form which they have given it may be seen in the hands of the Executive. I sincerely hope it may meet the ultimatum of Virginia.¹²⁵

TO EDMUND RANDOLPH.

Philadelphia, September 30, 1783.

DEAR SIR,

Your favor introducing Mr. Corbin, and that by the last week's post, have both been received. The

former did not get to Princeton before Mr. Corbin had left it, nor did I get to this place till he was so near leaving it, that I had no opportunity of manifesting my respect for your recommendations otherwise than by verbal civilities to him. Yesterday's post brought me no letter from you. In answer to your comment in the preceding one on the reception of a Minister from the economical republic to which we are allied, it will suffice to inform you, that, in pursuance of a commission from him, *six* elegant horses are provided for his coach, as was to have been one of the best houses in the most fashionable part of the city. Wherever commerce prevails there will be an inequality of wealth; and wherever the latter does, a simplicity of manners must decline.

Our foreign intelligence remains as at the date of my last. I forget whether I mentioned to you that our Ministers unanimously express surprise at the doubt started in America as to the epoch which terminated hostilities on our coast. They affirm, that one month from the date of the instrument was meant, and suppose that that exposition will not be contested. Pray can your researches inform me,—first, whether prizes made by and from parties not subject to the power before whose maritime courts they are carried, are *provisionally* or *finally* tried?—secondly, how far the rules established by the Sovereign of the captor, and those by the Sovereign of the courts, prevail in such trials?—thirdly, what difference is made in cases where both the parties concerned in the capture are subject to the same power, and where they are subject to different powers?

TO EDMUND RANDOLPH.

Philadelphia, October 13, 1783.

DEAR SIR,

The past week has been spent by Congress in deliberating on—first, their permanent seat; secondly, their temporary one. The competition for the former lay between the falls of the Potomac and those of the Delaware. We hoped, at first, from the *apparent* views of the Eastern Delegates, that they would have given a preference to Potomac. In the event they joined with Pennsylvania and the intermediate States in favor of the Delaware. The consequence of which is, the vicinity of its falls is to become the future seat of the Federal Government, unless a conversion of some of the Eastern States can be effected. The next point was the abode of Congress until the permanent seat could receive them. The expediency of removing from Princeton, in order to the more convenient transaction of the affairs of the United States, and accommodation of Congress, was first determined on; Massachusetts, Connecticut, and Rhode Island alone being opposed to it. Trenton was next proposed, on which question the votes were divided by the river Delaware. Philadelphia came next in order. Besides its convenient position in relation to the permanent seat, and superior temporary accommodations for the public business and for Congress, arguments in its favor were drawn from the tendency of passing by these accommodations to others inferior in themselves, and more distant from the permanent seat, to denote a resentment unworthy of a sovereign author-

ity against a part of its constituents which had fully expiated any offence which they might have committed, and at the same time to convert their penitential and affectionate temper into the bitterest hatred. To enforce this idea, some of the proceedings of Congress expressive of resentment against Philadelphia were made use of. Great stress also was laid on the tendency of removing to any small or distant place, to prevent or delay business which the honor and interest of the United States required should be despatched as soon as possible. On the other side, objections were drawn from those sources which have produced dislikes to Philadelphia, and which will be easily conjectured by you. On the question, New York, Pennsylvania, Delaware, Virginia, and North Carolina, were aye; Massachusetts, Connecticut, Rhode Island, New Jersey, no; and Maryland and South Carolina, divided. If either of the divided States had been in the affirmative, it was the purpose of New Jersey to add a seventh vote in favor of Philadelphia. The division of South Carolina was owing to the absence of Mr. Rutledge and Mr. Izard, both of whom would have voted for Philadelphia. The State was represented by two members only. The division of Maryland, represented by Mr. Carroll and Mr. McHenry, was occasioned by the negative of the latter, whose zeal for Annapolis determined him to sacrifice every consideration to an experiment in its favor, before he would accede to the vote for Philadelphia. The aversion of the Eastern States was the ground of his coalition with them. The arguments in favor of Annapolis consisted of objections against Philadelphia. Those

against it were chiefly the same which had been urged in favor of Philadelphia. On the question the States were Massachusetts, Connecticut, Rhode Island, Delaware, Maryland, and North Carolina, aye; New York, Pennsylvania, Virginia, no; South Carolina, divided. Virginia was represented by Mr. Lee, Mr. Mercer and Mr. Madison. The first was in the affirmative. Mr. Jones and Mr. Bland were in Philadelphia. The vote of the latter would have been in favor of Annapolis, of the former in favor of Philadelphia. The opinion of Mr. Lee and Mr. Bland in favor of Annapolis resulted from a dislike to Philadelphia, and the idea that the views of Virginia would be promoted by it. That of their colleagues, from a belief that the reasons drawn in favor of Philadelphia, from national considerations, required a concession of local views; and even that a recision of the permanent vote for Trenton in favor of Georgetown, the object of Virginia, would be promoted by placing the Eastern States in Philadelphia. They also supposed that the concurrence of the Eastern States in a temporary vote for Annapolis, to take effect some weeks hence, was little to be confided in, since the arrival of a colleague to the Delegate from New Hampshire would, with the accession of Pennsylvania, who would prefer Trenton to Annapolis, and be moreover stimulated by resentment, make up seven States to reverse the removal to Annapolis. Add to the whole, that experience has verified the opinion, that in any small place Congress are too dependent on courtesy and favor to be exempt, either in their purses or their sensibility, from degrading impositions. Upon the

whole, it is most probable that Philadelphia will be the abode of Congress during the winter. I must refer to Mr. Jones for explanations on all these points; he will be in Richmond early in the session. For myself, I have engaged to return to Princeton to attend some interesting points before Congress. Having not yet settled my arrangements for the winter, I must for the present be silent as to my — situation. Mr. Van Berkel arrived a few days since. Congress are in a charming situation to receive him, being in an obscure village, undetermined where they will spend the winter, and without a Minister of Foreign Affairs. After the receipt of this, you will stop your correspondence, and probably not hear further from me.¹²⁶

TO THOMAS JEFFERSON.

Orange, December 10, 1783.

DEAR SIR,

My journey from Annapolis was so much retarded by rains, and their effect on the water courses, that I did not complete it till the ninth day after I left you. I took Col. Mason in my way, and had an evening's conversation with him. I found him much less opposed to the general impost than I expected. Indeed he disclaimed all opposition to the measure itself, but had taken up a vague apprehension, that, if adopted at this crisis, it might embarrass the defence of our trade against British machinations. He seemed, upon the whole, to acquiesce in the territorial cession, but dwelt much on the expediency of

the guaranty. On the article of a Convention for revising our form of State Government, he was sound and ripe, and, I think, would not decline a participation in the work. His heterodoxy lay chiefly in being too little impressed with either the necessity or the proper means of preserving the Confederacy.

The situation of the commerce of this country, as far as I can learn, is even more deplorable than I had conceived. It cannot pay less to Philadelphia and Baltimore, if one may judge from a comparison of prices here and in Europe, than thirty or forty per cent. on all the exports and imports—a tribute which, if paid into the Treasury of the State, would yield a surplus above all its wants. If the Assembly should take any steps towards its emancipation, you will no doubt be apprized of them as well as their other proceedings from Richmond.

APPENDIX
TO
THE FIRST VOLUME.

APPENDIX

NO. I.

See Page 6,

ABSTRACT OF THE OBSERVATIONS ON THE BOUNDARY BETWEEN THE SPANISH SETTLEMENTS AND THE UNITED STATES, BY M. BARHE DE MARBOIS, FURNISHED BY HIM FOR THE PERUSAL OF THE MEMBERS OF CONGRESS, WHILST THE QUESTION WAS DEPENDING.

THE King of France, though anxious to effect the triple alliance, yet thinking the pretensions on both sides exorbitant, did not choose to interfere in support of either; but directed his Ministers at Philadelphia and Madrid to press the importance of mutual concessions. With this view, the former represented to Congress the necessity of concentrating the force against the common enemy, for want of which the events of the present campaign have proved inadequate to the exertions. The advantages of the alliance are obvious, in case of a negotiation for peace. It will be conducted with perfect harmony between the three allied powers. The Spaniards will be as much disposed as the French to support the just claims of the United States. They will not threaten to make a peace excluding them if the others shall be satisfied, on pretence that they are tied to France only, and had no motives to exhaust their resources for a people whose ambition prevented a treaty with a power on whom their safety depended. A continental war to be dreaded by France, as it depends on the death of two crowned heads, old and sickly, and is eighteen years since she was engaged in one. Hence the necessity of seeking a prompt peace by united efforts. Another advantage of an alliance arises from the impression an acknowledgment of Independence would make on other powers of Europe, and on England herself.

The necessity of the alliance being shewn, the means of bringing it about are next to be considered; the observations on which are to be taken not as ministerial communications, but the private sentiments of one more impartially attached to the good of both parties, than acquainted with the pretensions of either.

Spain claims the exclusive navigation of the Mississippi; and as much as I can guess, that part of the Continent which lies eastward of the Mississippi, formerly called the Orientalis Louisiana. On this head the following objections were suggested by the Committee to the French Minister in January last, when urging the necessity of satisfying Spain.

Objection 1. The charters of the Southern States forbid such a claim.

Answer. The transactions of a power with its own subjects not binding on another power unless communicated, acknowledged, and, in a case like the present, unless actual possession can be pleaded. Were it otherwise, perpetual contests would prevail among the Southern powers of Europe, as they have most of them granted such charters at sundry times to their subjects. The charters of the Colonies interfere with each other, most of them having disputes, not only with their neighbours, but with those at a distance—how then can they be a rule for another power?—How will it appear for the States, at the time they are requesting of Spain an acknowledgment of their independence, to apply to the very record which is the proof of their subjection? Is it not plain, that in such a case there is no other solid plea but actual occupation, or at least a former public manifest possession? The King of Spain, however, will not recur to these arguments: he will only say—these lands have been ceded eighteen years ago by France to Great Britain, (treaty of Paris, '63. Article 7.) not to the Colonies. If they become the property of any common enemy, I have a full right to make the conquest, and so I do.

Objection 2d. The lands in question necessary to the safety and prosperity of the States.

Answer. This is not certain. The case of Vermont, Kentucky, and some counties in Massachusetts, show the danger of such extensive territories. It is in vain to attempt to convince either party that their claims are against their interest, as they are the best judges of it. It rests, therefore, upon the respective possibility of making the conquest, and it may be left even to a partial judge to decide on this point.

Objection 3. Spain would take advantage of the present situation of the United States to treat with them on unequal principles.

Answer. This is the case in ninety-nine treaties out of one hundred—no such inequality—rather on the side of America—Spain will acknowledge her independence, and does not need hers to be so—Spain will grant commercial, and very likely other, advantages, and cannot expect the same from America. The benefits she is to reap are not of such a positive nature.

Objection 4th. If these demands were granted Spain might think herself entitled to the demand or conquest of Georgia, Penobscot, New York, &c.

Answer. This objection is extravagant, and cannot be seriously made. The most explicit assurances on this point might at any time be obtained.

Objection 5th. Such conduct in Spain neither generous nor liberal.

Answer. The Spanish Ministry have probably ere this said to the French Ambassador *that the conduct of the Americans is neither generous nor liberal.*

Objection 6th. A war, even a long war, preferable to such conditions.

Answer. A patient extremely ill might as well say to his physician death is better than not to drink spirituous liquors, and other things not to be found on the island where he was.

Objection 7th. The Spaniards would hereafter be the sacrifice of their own ambition. No unequal treaty can last long; the injured party will sooner or later break it.

Answer. The cautiousness of Spain may be trusted to provide against this evil. She may, perhaps, upon better ground, suggest the same danger to the States. They will choose rather, however, to confine themselves to their right of conquest upon a country possessed by their enemy.

Objection 8th. The territory cannot be given up without the previous consent of the interested States.

Answer. As this argument is founded on the charters, if it be valid, it would prove that no treaty would be valid unless it secured to the States the lands as far as the South Sea.

In this manner would reason a Minister of the Court of Spain, and it would seem no solid objection could be made to it. If any restrictions ought to be laid on these principles, they ought to be taken from the actual settlement of Americans on the territories claimed by the Spaniards. By settlement is meant, not temporary incursions of a few troops, but actual occupancy, supported by the exercise of jurisdiction, and by building houses, clearing and inhabiting the land, &c., without contradiction. Here an impartial mediator might find the line to be drawn between the contending parties. But I shall confine myself to represent to the friends of this case, that, in missing the present fair opportunity of obtaining solid and lasting advantages, to run after the shadow and a chimerical object, they expose themselves to the everlasting reproaches of their country.

NO. II.

See Page 448.

ADDRESS TO THE STATES, BY THE UNITED STATES IN CONGRESS ASSEMBLED.

The prospect which has for some time existed, and which is now happily realized, of a successful termination of the war, together with the critical exigencies of public affairs, have made it the duty of Congress to review and provide for the debts which the war has left upon the United States, and to look forward to the means of obviating dangers which may interrupt the harmony and tranquillity of the Confederacy. The result of their mature and solemn deliberations on these great objects is contained in their several recommendations of the eighteenth instant, herewith transmitted. Although these recommendations speak, themselves, the principles on which they are founded, as well as the ends which they propose, it will not be improper to enter into a few explanations and remarks, in order to place in a stronger view the necessity of complying with them.

The first measure recommended is, effectual provision for the debts of the United States. The amount of these debts, as far as they can now be ascertained, is forty-two millions three hundred and seventy-five dollars. To discharge the principal of this aggregate debt at once, or in any short period, is evidently not within the compass of our resources; and even if it could be accomplished, the ease of the community would require that the debt itself should be left to a course of gradual extinguishment, and certain funds be provided for paying, in the meantime, the annual interest. The amount of the annual interest is computed to be two millions four hundred and fifteen thousand nine hundred and fifty-six dollars. Funds, therefore, which will certainly and punctually produce this annual sum at least, must be provided.

In devising these funds, Congress did not overlook the mode of supplying the common treasury provided by the Articles of Confederation; but after the most respectful consideration of that mode, they were constrained to regard it as inadequate, and inapplicable to the form into which the public debt must be thrown. The delays and uncertainties incident to a revenue to be established and collected from time to time by thirteen independent authorities, are at first view irreconcilable with the punctuality essential in the discharge of the interest of a national debt. Our own experience, after making every allowance for transient impediments, has been a sufficient illustration of this truth. Some departure, therefore, in the recommendation of Congress, from the Federal Constitution, was unavoidable; but it

will be found to be as small as could be reconciled with the object in view, and to be supported, besides, by solid considerations of interest and sound policy.

The fund which first presented itself on this, as it did on a former, occasion, was a tax on imports. The reasons which recommended this branch of revenue have heretofore been stated, in an Act of which a copy, No. 2., is now forwarded, and need not be here repeated. It will suffice to recapitulate, that taxes on consumption are always least burdensome, because they are least felt, and are borne, too, by those who are both willing and able to pay them; that, of all taxes on consumption, those on foreign commerce are most compatible with the genius and policy of free states; that, from the relative positions of some of the more commercial States, it will be impossible to bring this essential resource into use without a concerted uniformity; that this uniformity cannot be concerted through any channel so properly as through Congress, nor for any purpose so aptly as for paying the debts of a Revolution from which an unbounded freedom has accrued to commerce.

In renewing this proposition to the States, we have not been unmindful of the objections which heretofore frustrated the unanimous adoption of it. We have limited the duration of the revenue to the term of twenty-five years; and we have left to the States themselves the appointment of the officers who are to collect it. If the strict maxims of national credit alone were to be consulted, the revenue ought manifestly to be co-existent with the object of it, and the collection placed in every respect under that authority which is to dispense the former, and is responsible for the latter. These relaxations will, we trust, be regarded, on one hand, as the effect of a disposition in Congress to attend at all times to the sentiments of those whom they serve, and, on the other hand, as a proof of their anxious desire that provision may be made in some way or other for an honorable and just fulfilment of the engagements which they have formed.

To render this fund as productive as possible, and at the same time to narrow the room for collusions and frauds, it has been judged an improvement of the plan, to recommend a liberal duty on such articles as are most susceptible of a tax according to their quantity, and are of most equal and general consumption; leaving all other articles, as heretofore proposed, to be taxed according to their value.

The amount of this fund is computed to be nine hundred and fifteen thousand nine hundred and fifty-six dollars. Accuracy in the first essay on so complex and fluctuating a subject is not to be expected. It is presumed to be as near the truth as the defect of proper materials would admit.

The residue of the computed interest is one million five hundred thousand dollars, and is referred to the States to be provided for by such funds as they may judge most convenient. Here again the strict maxims of public credit gave way to the desire of Congress to conform to the sentiments of their constituents. It ought not to be omitted, however, with respect to this portion of the revenue, that the mode in which it is to be supplied varies so little from that pointed out in the Articles of Confederation, and the variations are so conducive to the great object proposed, that a ready and unqualified compliance on the part of the States may be the more justly expected. In fixing the quotas of this sum, Congress, as may be well imagined, were guided by very imperfect lights, and some inequalities may consequently have ensued. These, however, can be but temporary, and as far as they may exist at all, will be redressed by a retrospective adjustment, as soon as a constitutional rule can be applied.

The necessity of making the two foregoing provisions one indivisible and irrevocable act, is apparent. Without the first quality, partial provision only might be made, where complete provision is essential; nay, as some States might prefer and adopt one of the funds only, and the other States the other fund only, it might happen that no provision at all would be made. Without the second, a single State out of the thirteen might at any time involve the nation in bankruptcy, the mere practicability of which would be a fatal bar to the establishment of national credit. Instead of enlarging on these topics, two observations are submitted to the justice and wisdom of the Legislatures. First, the present creditors or rather the domestic part of them, having either made their loans for a period which has expired, or having become creditors in the first instance involuntarily, are entitled, on the clear principles of justice and good faith, to demand the principal of their credits, instead of accepting the annual interest. It is necessary, therefore, as the principal cannot be paid to them on demand, that the interest should be so effectually and satisfactorily secured, as to enable them, if they incline, to transfer the stock at its full value. Secondly, if the funds be so firmly constituted as to inspire a thorough and universal confidence, may it not be hoped, that the capital of the domestic debt, which bears the high interest of six per cent. may be cancelled by other loans obtained at a more moderate interest? The saving by such an operation, would be a clear one, and might be a considerable one.

Thus much for the interest of the national debt. For the discharge of the principal within the term limited, we rely on the natural increase of the revenue from commerce; on requisitions to be made from time to time for that purpose, as circumstances may dictate;

and on the prospect of vacant territory. If these resources should prove inadequate, it will be necessary, at the expiration of twenty-five years, to continue the funds now recommended, or to establish such others as may then be found more convenient.

With a view to the resource last mentioned, as well as to obviate disagreeable controversies and confusions, Congress have included in their present recommendations a renewal of those of the sixth day of September, and of the tenth day of October, 1780. In both these respects, a liberal and final accommodation of all interfering claims of vacant territory is an object which cannot be pressed with too much solicitude.

The last object recommended is a constitutional change of the rule by which a partition of the common burthens is to be made. The expediency, and even necessity, of such a change, has been sufficiently enforced by the local injustice and discontents which have proceeded from valuations of the soil in every State where the experiment has been made. But how infinitely must these evils be increased on a comparison of such valuations among the States themselves! On whatever side, indeed, this rule be surveyed, the execution of it must be attended with the most serious difficulties. If the valuations be referred to the authorities of the several States, a general satisfaction is not to be hoped for. If they be executed by officers of the United States, traversing the country for that purpose, besides the inequalities against which this mode would be no security, the expense would be both enormous and obnoxious. If the mode taken in the act of the seventeenth day of February last, which was deemed on the whole least objectionable, be adhered to, still the insufficiency of the data to the purpose to which they are to be applied, must greatly impair, if not utterly destroy, all confidence in the accuracy of the result; not to mention, that, as far as the result can be at all a just one, it will be indebted for the advantage to the principle on which the rule proposed to be substituted is founded. This rule, although not free from objections, is liable to fewer than any other that could be devised. The only material difficulty which attended it, in the deliberations of Congress, was to fix the proper difference between the labor and industry of free inhabitants, and of all other inhabitants. The ratio ultimately agreed on was the effect of mutual concessions; and if it should be supposed not to correspond precisely with the fact, no doubt ought to be entertained that an equal spirit of accommodation among the several Legislatures will prevail against little inequalities which may be calculated on one side or on the other. But notwithstanding the confidence of Congress, as to the success of this proposition, it is their duty to recollect that the event may possibly disappoint them, and to

request that measures may still be pursued for obtaining and transmitting the information called for in the act of the seventeenth of February last, which in such event will be essential.

The plan thus communicated and explained by Congress must now receive its fate from their constituents. All the objects comprised in it are conceived to be of great importance to the happiness of this confederated republic, and necessary to render the fruits of the Revolution a full reward for the blood, the toils, the cares, and the calamities, which have purchased it. But the object of which the necessity will be peculiarly felt, and which it is peculiarly the duty of Congress to inculcate, is the provision recommended for the national debt. Although this debt is greater than could have been wished, it is still less, on the whole, than could have been expected; and when referred to the cause in which it has been incurred, and compared with the burthens which wars of ambition and of vain glory have entailed on other nations, ought to be borne, not only with cheerfulness, but with pride. But the magnitude of the debt makes no part of the question. It is sufficient that the debt has been fairly contracted, and that justice and good faith demand that it should be fully discharged. Congress had no option but between different modes of discharging it. The same option is the only one that can exist with the States. The mode which has, after long and elaborate discussion, been preferred, is, we are persuaded the least objectionable of any that would have been equal to the purpose. Under this persuasion, we call upon the justice and plighted faith of the several States, to give it its proper effect; to reflect on the consequences of rejecting it; and to remember that Congress will not be answerable for them.

If other motives than that of justice could be requisite on this occasion, no nation could ever feel stronger; for to whom are the debts to be paid?

To an ally, in the first place, who, to the exertion of his arms in support of our cause, has added the succours of his treasure; who, to his important loans, has added liberal donations; and whose loans themselves carry the impression of his magnanimity and friendship.

To *individuals in a foreign country*, in the next place, who were the first to give so precious a token of their confidence in our justice, and of their friendship for our cause, and who are members of a republic which was second in espousing our rank among nations.

Another class of creditors is, *that illustrious and patriotic band of fellow-citizens*, whose blood and whose bravery have defended the liberties of their country, who have patiently borne, among other distresses, the privation of their stipends, while the distresses of their country disabled it from bestowing them; and who, even now, ask

for no more than such a portion of their dues as will enable them to retire from the field of victory and glory into the bosom of peace and private citizenship, and for such effectual security for the residue of their claims, as their country is now unquestionably able to provide.

The remaining class of creditors is composed partly of such of our fellow-citizens as originally lent to the public the use of their funds, or have since manifested most confidence in their country by receiving transfers from the lenders; and partly of those whose property has been either advanced or assumed for the public service. To discriminate the merits of these several descriptions of creditors, would be a task equally unnecessary and invidious. If the voice of humanity plead more loudly in favor of some than of others, the voice of policy, no less than of justice, pleads in favor of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its firmness, and its resources, when either of them is distrusted, to suffer by the event.

Let it be remembered, finally, that it has ever been the pride and boast of America, that the rights for which she contended were the rights of human nature. By the blessing of the Author of these rights on the means exerted for their defence, they have prevailed against all opposition, and form the basis of thirteen independent States. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of republican government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view, the citizens of the United States are responsible for the greatest trust ever confided to a political society. If justice, good faith, honor, gratitude, and all the other qualities which enoble the character of a nation, and fulfil the ends of government, be the fruits of our establishments, the cause of liberty will acquire a dignity and lustre which it has never yet enjoyed; and an example will be set which cannot but have the most favorable influence on the rights of mankind. If, on the other side, our governments should be unfortunately blotted with the reverse of these cardinal and essential virtues, the great cause which we have engaged to vindicate will be dishonored and betrayed; the last and fairest experiment in favor of the rights of human nature will be turned against them; and their patrons and friends exposed to be insulted and silenced by the votaries of tyranny and usurpation.

NO. III.

See Page 448.

REPORT, IN ANSWER TO THE OBJECTIONS OF RHODE ISLAND TO A DUTY
ON IMPORTS, &c.

By the United States in Congress assembled, December 16th, 1782.

The committee, consisting of Mr. HAMILTON, Mr. MADISON, and Mr. FITZSIMONS, to whom was referred the letter of the thirteenth of November, from the honorable WILLIAM BRADFORD, Speaker of the Lower House of Assembly of the State of Rhode Island, containing, under three heads, the reasons of that State for refusing their compliance with the recommendation of Congress for a duty on imports and prize goods, report :

That they flatter themselves the State, on a reconsideration of the objections they have offered, with a candid attention to the arguments which stand in opposition to them, will be induced to retract their dissent, convinced that the measure is supported on the most solid grounds of equal justice, policy, and general utility. The following observations, contrasted with each head of the objections, successively furnish a satisfactory answer to the whole.

First objection. "That the proposed duty would be unequal in its operation, bearing hardest upon the most commercial States, and so would press peculiarly hard upon that State which draws its chief support from commerce."

The most common experience, joined to the concurrent opinions of the ablest commercial and political observers, have established beyond controversy this general principle, "that every duty on imports is incorporated with the price of the commodity, and ultimately paid by the consumer, with a profit on the duty itself, as a compensation to the merchant for the advance of his money."

The merchant considers the duty demanded by the state on the imported article, in the same light with freight, or any similar charge ; and, adding it to the original cost, calculates his profit on the aggregate sum. It may happen, that at particular conjunctures, where the markets are overstocked, and there is a competition among the sellers, this may not be practicable ; but in the general course of trade the demand for consumption preponderates, and the merchant can with ease indemnify himself, and even obtain a profit on the advance. As a consumer, he pays his share of the duty, but it is no further a burden upon him. The consequence of the principle laid down is, that every class of the community bears its share of the duty in proportion to its consumption, which last is regulated by the comparative wealth

of the respective classes, in conjunction with their habits of expense or frugality. The rich and luxurious pay in proportion to their riches and luxury ; the poor and parsimonious, in proportion to their poverty and parsimony. A chief excellence of this mode of revenue is, that it preserves a just measure to the abilities of individuals, promotes frugality, and taxes extravagance. The same reasoning in our situation applies to the intercourse between two States ; if one imports and the other does not, the latter must be supplied by the former. The duty being transferred to the price of the commodity, is no more a charge on the importing State for what is consumed in the other, than it is a charge on the merchant for what is consumed by the farmer or artificer. Either State will only feel the burthen in a ratio to its consumption, and this will be in a ratio to its population and wealth. What happens between the different classes of the same community, internally, happens between the two States ; and as the merchant in the first case, so far from losing the duty himself, has a profit on the money he advances for that purpose, so the importing State, which in the second case is the merchant with respect to the other, is not only reimbursed by the non-importing State, but has a like benefit on the duty advanced. It is therefore the reverse of a just position, that the duty proposed will bear hardest on the most commercial States ; it will, if anything, have a contrary effect, though not in a sufficient degree to justify an objection on the part of the non-importing States. For it is as reasonable they should allow an advance on the duty paid as on the first cost, freight or any incidental charge. They have also other advantages in the measure, fully equivalent to this disadvantage. Over nice and minute calculations, in matters of this nature, are inconsistent with national measures, and in the imperfect state of human affairs, would stagnate all the operations of government. Absolute equality is not to be obtained ; to aim at it, is pursuing a shadow at the expense of the substance, and in the event we should find ourselves wider of the mark, than if, in the first instance, we were content to approach it with moderation.

Second objection. "That the recommendation proposes to introduce into that and the other States officers unknown and unaccountable to them, and so is against the Constitution of the State."

It is not to be presumed that the Constitution of any State could mean to define and fix the precise numbers and descriptions of all officers to be permitted in the State, excluding the creation of any new ones, whatever might be the necessity derived from that variety of circumstances incident to all political institutions. The Legislature must always have a discretionary power of appointing officers,

not expressly known to the Constitution; and this power will include that of authorizing the Federal Government to make the appointments in cases where the general welfare may require it. The denial of this would prove too much; to wit, that the power given by the Confederation to Congress, to appoint all officers in the post office, was illegal and unconstitutional.

The doctrine advanced by Rhode Island would perhaps prove, also, that the Federal Government ought to have the appointment of no internal officers whatever—a position that would defeat all the provisions of the Confederation, and all the purposes of the Union. The truth is, that no federal constitution can exist without powers that, in their exercise, affect the internal police of the component members. It is equally true, that no government can exist without a right to appoint officers for those purposes which proceed from and centre in, itself; and therefore the Confederation has expressly declared, that Congress shall have authority to appoint all such “civil officers as may be necessary for managing the general affairs of the United States under their direction.” All that can be required is, that the Federal Government confine its appointments to such as it is empowered to make by the original act of union, or by the subsequent consent of the parties. Unless there should be express words of exclusion in the Constitution of a State, there can be no reason to doubt that it is within the compass of legislative discretion to communicate that authority.

The propriety of doing it upon the present occasion is founded on substantial reasons.

The measure proposed is a measure of necessity. Repeated experiments have shown, that the revenue to be raised within these States is altogether inadequate to the public wants. The deficiency can only be supplied by loans. Our applications to the foreign powers on whose friendship we depend have had a success far short of our necessities. The next resource is to borrow from individuals. These will neither be actuated by generosity nor reasons of state. 'Tis to their interest alone we must appeal. To conciliate this, we must not only stipulate a proper compensation for what they lend, but we must give security for the performance. We must pledge an ascertained fund, simple and productive in its nature, general in its principle, and at the disposal of a single will. There can be little confidence in a security under the constant revisal of thirteen different deliberatives. It must, once for all, be defined and established on the faith of the States, solemnly pledged to each other, and not revocable by any without a breach of the general compact.

'Tis by such expedients that nations whose resources are under-

stood, whose reputations and governments are erected on the foundation of ages, are enabled to obtain a solid and extensive credit. Would it be reasonable in us to hope for more easy terms, who have so recently assumed our rank among the nations? Is it not to be expected that individuals will be cautious in lending their money to a people in our circumstances, and that they will at least require the best security we can give?

We have an enemy, vigilant, intriguing, well acquainted with our defects and embarrassments. We may expect that he will make every effort to instil diffidences into individuals, and in the present posture of our internal affairs he will have too plausible ground on which to tread. Our necessities have obliged us to embrace measures, with respect to our public credit, calculated to inspire distrust. The prepossessions on this article must naturally be against us, and it is therefore indispensable we should endeavour to remove them, by such means as will be the most obvious and striking.

It was with these views Congress determined on a general fund; and the one they have recommended must, upon a thorough examination, appear to have fewer inconveniences than any other.

It has been remarked as an essential part of the plan, that the fund should depend on a single will. This will not be the case unless the collection, as well as the appropriation, is under the control of the United States; for it is evident, that, after the duty is agreed upon, it may, in a great measure, be defeated by an ineffectual mode of levying it. The United States have a common interest in an uniform and equally energetic collection; and not only policy, but justice to all the parts of the Union, designates the utility of lodging the power of making it where the interest is common. Without this, it might in reality operate as a very *unequal tax*.

Third objection. "That by granting to Congress a power to collect moneys from the commerce of these States, indefinitely as to time and quantity, and for the expenditure of which they are not to be accountable to the States, they would become independent of their constituents, and so the proposed impost is repugnant to the liberty of the United States."

Admitting the principle of this objection to be true, still it ought to have no weight in the present case, because there is no analogy between the principle and the fact.

First. The fund proposed is sufficiently definite as to time, because it is only co-extensive with the existence of the debt contracted, and to be contracted, in the course of the war. Congress are persuaded that it is as remote from the intention of their constituents to perpetuate that debt, as to extinguish it at once by a faithless neglect of pro-

viding the means to fulfil the public engagements. Their ability to discharge it, in a moderate time, can as little be doubted as their inclination ; and the moment that debt ceases, the duty, so far as respects the present provision, ceases with it.

The resolution recommending the duty, specifies the object of it to be the discharge of the principal and interest of the debts already contracted, or which may be contracted on the faith of the United States for supporting the present war.

Secondly. The rate per cent. is fixed, and it is not at the option of the United States to increase it. Though the product will vary according to the variations in trade, yet, as there is this limitation of the rate, it cannot be properly said to be indefinite as to quantity.

By the Confederation, Congress have an absolute discretion in determining the quantum of revenue requisite for the national expenditure. When this is done, nothing remains for the States, separately, but the mode of raising it. No State can dispute the obligation to pay the sum demanded, without a breach of the Confederation ; and when the money comes into the treasury the appropriation is the exclusive province of the Federal Government. This provision of the Confederation (without which it would be an empty form) comprehends in it the principle, in its fullest latitude, which the objection under consideration treats as repugnant to the liberty of the United States, to wit, an indefinite power of prescribing the quantity of money to be raised, and of appropriating it when raised.

If it be said, that the States individually, having the collection in their own hands, may refuse a compliance with exorbitant demands, the Confederation will answer, that this is a point of which they have no constitutional liberty to judge. Such a refusal would be an exertion of power, not of right ; and the same power which could disregard a requisition made on the authority of the Confederation, might at any time arrest the collection of the duty.

The same kind of responsibility which exists with respect to the expenditure of the money, furnished in the forms hitherto practised, would be equally applicable to the revenue from the imports.

The truth is, the security intended to the general liberty in the Confederation consists in the frequent election, and in the rotation, of the members of Congress, by which there is a constant and an effectual check upon them. This is the security which the people in every State enjoy against the usurpations of their internal governments ; and it is the true source of security in a representative republic. The government, so constituted, ought to have the means necessary to answer the end of its institution. By weakening its hands

too much it may be rendered incapable of providing for the interior harmony, or the exterior defence, of the State.

The measure in question, if not within the letter, is within the spirit, of the Confederation. Congress by that are empowered to borrow money for the use of the United States, and by implication to concert the means necessary to accomplish the end. But without insisting upon this argument, if the Confederation has not made proper provision for the exigencies of the States, it will be at all times the duty of Congress to suggest further provisions; and when their proposals are submitted to the unanimous consent of the States, they can never be charged with exceeding the bounds of their trust. Such a consent is the basis and sanction of the Confederation, which expressly, in the thirteenth Article, empowers Congress to agree to and propose such additional provisions.

The remarks hitherto made have had reference principally to the future prosecution of the war. There still remains an interesting light in which the subject ought to be viewed.

The United States have already contracted a debt, in Europe and in this country, for which their faith is pledged. The capital of this debt can only be discharged by degrees; but a fund for this purpose, and for paying the interest annually, on every principle of policy and justice, ought to be provided. The omission will be the deepest ingratitude and cruelty to a large number of meritorious individuals, who, in the most critical periods of the war, have adventured their fortunes in support of our independence. It would stamp the national character with indelible disgrace.

An annual provision for the purpose will be too precarious. If its continuance and application were certain, it would not afford complete relief. With many the regular payment of interest, by occasional grants, would suffice, but with many more it would not. These want the use of the principal itself, and they have a right to it; but since it is not in our power to pay off the principal, the next expedient is to fund the debt, and render the evidences of it negotiable.

Besides the advantage to individuals from this arrangement, the active stock of the nation would be increased by the whole amount of the domestic debt, and of course the abilities of the community to contribute to the public wants; the national credit would revive and stand hereafter on a secure basis.

This was another object of the proposed duty.

If it be conceded that a similar fund is necessary, it can hardly be disputed that the one recommended is the most eligible. It has been already shown that it affects all parts of the community in proportion

to their consumption, and has therefore the best pretensions to equality. It is the most agreeable tax to the people that can be imposed, because it is paid insensibly, and seems to be voluntary.

It may perhaps be imagined that it is unfavorable to commerce, but the contrary can easily be demonstrated. It has been seen that it does not diminish the profit of the merchant, and of course, can be no diminution of his inducements to trade. It is too moderate in its amount to discourage the consumption of imported goods, and cannot on that account abridge the extent of importations. If it even had this effect, it would be an advantage to commerce by lessening the proportion of our imports to our exports, and inclining the balance in favor of this country.

The principal thing to be consulted for the advancement of commerce, is to promote exports. All impediments to these, either by way of prohibition or by increasing the prices of native commodities, decreasing by that means their sale and consumption at foreign markets, are injurious. Duties on exports have this operation. For the same reason, taxes on possessions, and the articles of our own growth or manufacture, whether in the form of a land tax, excise or any other, are more hurtful to trade than impost duties. The tendency of all such taxes is to increase the prices of those articles which are the objects of exportation, and to enable others to undersell us abroad. The farmer, if he pays a heavy land tax, must endeavour to get more for the products of his farm; the mechanic and laborer, if they find the necessaries of life grow dearer by an excise, must endeavour to exact higher wages; and these causes will produce an increase of prices within, and operate against foreign commerce.

It is not, however, to be inferred that the whole revenue ought to be drawn from imports. All extremes are to be rejected. The chief thing to be attended to is, that the weight of the taxes fall not too heavily, in the first instance, upon particular parts of the community. A judicious distribution, to all kinds of taxable property, is a first principle in taxation. The tendency of these observations is only to show, that taxes on possessions, on articles of our own growth and manufacture, are more prejudicial to trade than duties on imports.

The observations which conclude the letter on which these remarks are made, naturally lead to reflections that deserve the serious attention of every member of the Union. There is a happy mean between too much confidence and excessive jealousy, in which the health and prosperity of a state consist. Either extreme is a dangerous vice; the first is a temptation to men in power to arrogate more than they have a right to; the latter enervates government, prevents system in

the administration, defeats the most salutary measures, breeds confusion in the state, and disgusts and discontents among the people; and may eventually prove as fatal to liberty as the opposite temper.

It is certainly pernicious to leave any government in a situation of responsibility disproportioned to its power.

The conduct of the war is entrusted to Congress, and the public expectation turned upon them, without any competent means at their command to satisfy the important trust. After the most full and solemn deliberation, under a collective view of all the public difficulties, they recommend a measure which appears to them the cornerstone of the public safety. They see this measure suspended for near two years; partially complied with by some of the States; rejected by one of them, and in danger, on that account, to be frustrated; the public embarrassments every day increasing; the dissatisfaction of the army growing more serious; the other creditors of the public clamoring for justice; both irritated by the delay of measures for their present relief, or future security; the hopes of our enemies encouraged to protract the war; the zeal of our friends depressed by an appearance of remissness and want of exertion on our part; Congress harassed; the national character suffering, and the national safety at the mercy of events.

This state of things cannot but be extremely painful to Congress, and appear to your committee to make it their duty to be urgent to obviate the evils with which it is pregnant.

NO. IV.

See Page 65.

A LETTER TO THE EDITOR OF NILES' REGISTER, CORRECTING AN ERROR IN RAMSAY'S HISTORY OF THE REVOLUTION, IN RELATION TO THE NAVIGATION OF THE MISSISSIPPI.

MONTPELIER, JANUARY 8TH, 1822.

MR. NILES,

In Ramsay's History of the American Revolution, Vol. 2, pp. 300, 301, is the following passage:

"Mr. JAY was instructed to contend for the right of the United States to the free navigation of the river Mississippi; and if an express acknowledgment of it could not be obtained, he was restrained from acceding to any stipulation by which it should be relinquished.

But in February, 1781, when Lord Cornwallis was making rapid progress in overrunning the southern States, and when the meeting of the Pennsylvania line, and other unfavorable circumstances, depressed the spirits of the Americans, Congress, *on the recommendation of Virginia*, directed him to recede from his instructions, so far as they insist on the free navigation of that part of the Mississippi which lies below the thirty-first degree of north latitude, provided such concession should be unalterably insisted on by Spain, and provided the free navigation of the said river, above the said degree of north latitude, should be acknowledged and guaranteed by his Catholic majesty, in common with his own subjects."

In this account of the instruction to Mr. JAY, to relinquish the navigation of the Mississippi, below the southern boundary of the United States, the measure would seem to have had its origin with the State of Virginia.

This was not the case; and the very worthy historian, who was not at that period a member of Congress, was led into his error by the silence of the Journals as to what had passed on the subject, previous to the fifteenth of February, 1781, when they agreed to the instruction to make the relinquishment, as moved by the Delegates of Virginia, in pursuance of instructions from the Legislature. It was not unusual with the Secretary of Congress to commence his entries on the Journal with the stage in which the proceedings assumed a definite character; omitting, or noting on separate and informal sheets only, the preliminary steps.

The Delegates from Virginia had been long under instructions from their State, to insist on the right to the navigation of the Mississippi, and Congress had always included it in their ultimatum for peace. As late as the fourth of October, 1780, (see the Secret Journal of that date,) they had renewed their adherence to this point, by unanimously agreeing to the report of a committee to whom had been referred "certain instructions to the Delegates of Virginia by their constituents, and a letter of the twenty-ninth of May, from Mr. JAY at Madrid," which report prohibited him from relinquishing the right of the United States to the free navigation of the river Mississippi, into and from the sea, as asserted in his former instructions; and on the seventeenth of the same month, October, (see the Secret Journal of that date), Congress agreed to the report of a committee explaining the reasons and principles on which the instructions of the tenth of October were founded.

Shortly after this last measure of Congress, the Delegates of South Carolina and Georgia, seriously affected by the progress and views

of the enemy in the southern States, and by the possibility that the interference of the great neutral powers might force a peace on the principle of *uti possidetis*, whilst those States, or parts of them, might be in the military occupancy of Great Britain, urged with great zeal, within and without doors, the expediency of giving fresh vigor to the means of driving the enemy out of their country, by drawing Spain into an alliance, and into pecuniary succours believed to be unattainable without yielding our claim to the navigation of the Mississippi. The efforts of those Delegates did not fail to make proselytes, till at length it was ascertained that a number was disposed to vote for the measure sufficient without the vote of Virginia; and it happened that one of the two Delegates from that State concurred in the policy of what was proposed. (See letter of the twenty-fifth of November, and extract of the fifth of December, 1780, from J. MADISON to JOSEPH JONES.)

In this posture of the business, Congress was prevailed on to postpone any final decision, until the Legislature of Virginia could be consulted, it being regarded by all as very desirable, where the powers of Congress depended so much on the individual wills of the States, that an important member of the Union, on a point particularly interesting to it, should receive every conciliatory mark of respect, and it being calculated, also, that a change in the councils of that State might have been produced by the causes producing it in others.

A joint letter, bearing date the thirteenth of December, 1780, (which see) was accordingly written by the Delegates of Virginia to Governor JEFFERSON, to be laid before the Legislature then in session, simply stating the case, and asking instructions on the subject, without any expression of their own opinions, which, being at variance, could not be expected in a letter to be signed by both.

The result of these communications from the Delegates was a repeal of the former instructions, and a transmission of different ones; the receipt of which, according to an understanding when the decision of Congress was postponed, made it incumbent on the two Delegates to bring the subject before Congress. This they did by offering the instruction to Mr. JAY, agreed to on the fifteenth of February, 1781, and referred to in the historical passage above cited.

It is proper to add, that, the instant the menacing crisis was over, the Legislature of Virginia revoked the instruction to her Delegates to cede the navigation of the Mississippi; and that Congress seized the first moment, also, for revoking theirs to Mr. JAY.

I have thought a statement of these circumstances due to truth;

and that its accuracy may be seen to depend not on memory alone, the copies of contemporary documents, verifying it, are annexed.

In the hope that this explanation may find its way to the notice of some future historian of our Revolutionary transactions, I request for it a place, if one can be afforded, in your Register; where it may more readily offer itself to his researches, than in publications of more transient or miscellaneous contents.*

With friendly respect,
JAMES MADISON.

* For the letters herein referred to, see their respective dates.

Aug 11 1931

